

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No. 515 of 2018

Susanta Kumar Tripathy & Appellants
Another

-versus-

Swarnalata Senapati & Respondents
Another

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
29.03.2022

Order
No.

07. **1.** This matter is taken up through Hybrid mode.
- 2.** Heard Mr. K.C. Nayak, learned counsel for the Appellants and Mr. S.K. Dash, learned counsel for the Respondents-Company.
- 3.** This appeal has been filed challenging the award dated 20.05.2016 passed by the learned 3rd M.A.C.T., Bhubaneswar in MACT Case No.142 of 2010, wherein the learned Tribunal passed nil award against the present Appellants/Claimants.

4. The appellants seeking grant of compensation for the untimely death of their son in a motor accident occurred on 24.02.2010 filed the claim petition seeking grant of compensation of Rs.25,95,000/-. Even though, in the aforesaid claim case, the owner as well as the Respondent-Company were noticed, but nobody entered appearance on behalf of the owner of the offending vehicle. The Respondent No.2-Company contested the matter before the learned Tribunal.

5. It is submitted by Mr. Nayak, learned counsel for the Appellants that since both the claimants are the parents of the deceased and in view of their old age they were not properly advised by their engaged counsel and accordingly, they failed to adduce their evidence before the learned court below.

6. It is further submitted by Mr. Nayak, learned counsel for the Appellants that because of the latches on the part of the engaged counsel necessary police papers were also not produced, which created a doubt on the mind of the learned Tribunal in deciding the case in favour of the Claimants-Appellants.

7. Per contra, learned counsel for the Respondents-Company while supporting the award

prayed for dismissal of the appeal.

8. It is also contended by the learned counsel for the Company that since in spite of opportunity no evidence was laid by the present appellants, who are the Petitioners before the learned court below and no police papers having been produced before the said court, the learned Tribunal rightly rejected the matter by passing nil award.

9. Having heard learned counsel for both the parties and after going through the impugned award, this Court finds that the appellants are parents of the deceased and the deceased was the only son, who died in the accident in question on 24.02.2010. Only because, the appellants did not adduce evidence in support of their claim and some police papers were not exhibited, the learned Tribunal should not have disposed of the matter by passing a nil award. Since the case in hand is a case of death and the appellants have lost their only son, this Court finds it deem and proper to set aside the award and remand the same for fresh disposal in accordance with law.

10. Since the case is of the year 2010, this Court directs the learned court below to make all endeavor to dispose of the matter within a period of six

months from the date of production of the certified copy of this order.

11. It is further observed that all the parties are at liberty to adduce necessary evidence in support of their claim and the learned Tribunal should also allow the parties herein to file any documents in support of their respective claims.

12. With the aforesaid observation and direction, the MACA stands disposed of. There shall be no order as to costs.

(Biraja Prasanna Satapathy)
Judge

Subrat

