

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**MACA No.276 of 2019**

***Prasanna Patra and Others***

....

***Appellants***

Mr. P.K. Mishra, Advocate

*-versus-*

***Nagendra Nayak and Another***

....

***Respondents***

Mr. G.P. Dutta, counsel for Respondent No.2

**CORAM:**

**SHRI JUSTICE B. P. ROUTRAY**

**ORDER**

**6.5.2022**

**Order No.**

- 06.
1. Heard Mr. P.K. Mishra, learned counsel for the claimant – Appellants and Mr. G.P. Dutta, learned counsel for insurer – Respondent No.2.
  2. Present appeal by the claimants has been filed challenging the common judgment dated 31<sup>st</sup> January, 2019 of learned 1<sup>st</sup> MACT, Dhenkanal passed in MAC Nos.88 & 89 of 2012. The present appeal is in respect of MAC No.88 of 2012 wherein compensation to the tune of Rs.13,30,000/- along with interest @ 7% per annum from the date of filing of the claim application, i.e. 27<sup>th</sup> March, 2012 has been granted on account of death of the deceased in the motor vehicular accident dated 8<sup>th</sup> February, 2012. Further, the insurer has been granted right of recovery of said amount from the owner of the vehicle.
  3. It is submitted on behalf of the Appellants that filial consortium in respect of the children of the deceased, namely Asit Kumar Patra

and Subham Patra who are present Appellant Nos.2 &3, has not been paid.

4. Upon hearing Mr. Dutta and perusal of the impugned judgment, it reveals that admittedly no filial consortium has been paid to those two children of the deceased though the widow wife has been granted compensation towards loss of consortium.

5. Accordingly, the insurer is found liable to pay an amount of Rs.80,000/- (Rs.40,000/- to each child) in terms of principles decided in the case of *Magma General Insurance Company Ltd. v. Nanu Ram @ Chuhru Ram and Others*, (2018) 18 SCC 130.

Considering the probable interest accrued over the same amount, the insurer is found liable to pay a further consolidated sum of Rs.1,00,000/-.

6. In the result, the appeal is allowed and the Insurer, i.e. M/s. Reliance General Insurance Co. Ltd. (Respondent No.2) is directed to deposit a further consolidated sum of Rs.1,00,000/- (one lakh) before the tribunal within a period of two months from today which shall be disbursed in favour of the claimant – Appellant Nos.2 and 3.

7. The right of recovery as granted by the learned Tribunal is left undisturbed.

8. An urgent certified copy of this order be issued as per rules.

**( B.P. Routray )**  
**Judge**