IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.277 of 2019

Priyadarsini 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.

07. 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 31st January, 2019 of learned 1st MACT, Dhenkanal passed in MAC Nos.88 & 89 of 2012. The present appeal is in respect of MAC No.89 of 2012 wherein compensation to the tune of Rs.12,59,000/- along with interest @ 7% per annum from the date of filing of the claim application, i.e. 27th March, 2012 has been granted on account of death of the deceased in the motor vehicular accident dated 8th 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 no future prospect has been paid by the Tribunal though the deceased was aged about 33 years on the date of accident, and the only child of the deceased, namely Priti Prangya Patra (present Appellant No.2) has not been granted the filial consortium.

4. Upon hearing Mr. Dutta, learned counsel for the insurer and perusal of the impugned judgment, it reveals that the tribunal has assessed loss of dependency of Rs.8,64,000/- based on the income of the deceased at Rs.6000/- per month without adding any future prospects.

5. Admittedly the Appellants do not question such assessment of monthly income of the deceased done by the Tribunal at Rs.6000/-. As such accepting the same being the undisputed amount towards income, future prospect to the extent of 40% requires to be added to the same in terms of principles decided in the case of ***National Insurance Co. Ltd. v. Pranay Sethi and Others, (2017) 16 SCC 680,*** for the purpose of calculating loss of dependency. By adding so, the same comes to Rs.12,09,600/-.

6. Again, the claimant Appellant No.2 is found entitled to further sum of Rs.40,000/- towards filial consortium as per the principles decided in the case of ***Magma General Insurance Company Ltd. v. Nanu Ram @ Chuhru Ram and Others, (2018) 18 SCC 130***.

7. Thus, on computation, the total differential amount above the award is found to be Rs.3,85,600 and considering the probable interest

payable @ 6% per annum on it from the date of filing of the claim application, the insurer is found liable to pay a further consolidated sum of Rs.5,50,000/-.

8. 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.5,50,000/- (five lakh fifty thousand) before the tribunal within a period of two months from today; where-after the same shall be disbursed in favour of the claimant – Appellants on such terms and proportion to be decided by the learned Tribunal.

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

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

(B.P. Routray)
Judge

M.K.Panda