

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.1284 of 2017

**Divisional Manager, New
India Assurance Co. Ltd.**

....

Appellant

-versus-

Bankanidhi Rout & Anr.

....

Respondents

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
07.03.2022**

Order No

08. 1. This matter is taken up through Hybrid Mode.

2. Heard Mr. Nirmal Chandra Mohanty, learned counsel for the appellant and learned counsel appearing for the claimants-respondents.

3. This appeal has been filed by the appellants-company challenging the judgment dated 25.09.2017 passed in MAC Case No. 129 of 1997 by the learned Additional District Judge-cum-3rd MACT, Dhenkanal.

4. Learned Tribunal vide the said judgment while allowing the claim in part, directed to pay Rs.65,600/- to the claimant with interest @ 7% per annum w.e.f. 26.03.2007.

5. It is submitted by Mr. N.C. Mohanty, learned counsel for the Appellant that learned Tribunal while passing the aforesaid judgment, has not taken into consideration the stand taken by the Appellant-Company that the offending vehicle was not having the required policy on the date of accident.

6. As revealed from the impugned judgment, it is evident that learned Tribunal while passing the award in favour of the claimants-respondents has taken note of the said stand of the Appellant-Company and rightly concluded that the offending vehicle was having the required policy as on the date of the accident.

7. The Appellant-Company has tried to take the benefit of some wrong committed by the claimants-respondents with regard to mentioning of the policy no. in his claim. But the fact remains that the offending vehicle was having the policy as on the date of accident.

8. Accordingly, in my view, learned Tribunal has rightly appreciated the claim against the Appellant.

9. Be that as it may taking into account stand taken by the Appellant-Company and the submission made by the learned counsel for the Claimant-Respondent, though, I am not inclined to interfere with the order passed vide the impugned judgment dated 25.09.2017. I deem it fit and proper to reduce the compensation amount from Rs.65,600/- to Rs.60,000/-.

10. It is also found from the impugned judgment that the learned Tribunal while allowing the compensation has directed

to pay interest @ 7% per annum w.e.f. 23.06.2007, which is in my considered view is on the higher side.

11. In view of the prevailing situation, I am also inclined to held that the Claimant-Respondent will be entitled to get compensation of Rs.60,000/- with interest @ 6% per annum w.e.f. 23.06.2007 till the date of payment.

12. Accordingly, I direct the Appellant-Company to pay the aforesaid amount of Rs.60, 000/- with interest @ 6% per annum w.e.f. 23.06.2007 to the claimants-respondents within a period of 8 weeks from today.

13. It is observed that only after payment of the aforesaid amount along with interest, the appellant-company will be permitted to take refund of the statutory deposits made before this Court along with accrued interest thereon.

14. With the aforesaid observation and direction, the appeal is disposed of.

(Biraja Prasanna Satapathy)
Judge

Sneha