

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.827 of 2016

***The Divisional Manager,
Oriental Insurance Co. Ltd.***

.... Appellant

Mr.S.K.Swain, Advocate

-versus-

Shantilata Choudhury and others Respondents

Mr.P.K.Nayak, Advocate for Respondent Nos.4 to 8

Mr.P.K.Mahali, Advocate of Respondent No.2

**CORAM:
JUSTICE B. P. ROUTRAY**

**ORDER
28.9.2022**

Order No.

13.

1. The matter is taken up through Hybrid mode.
2. Heard Mr.Swain, learned counsel for the Appellant-Insurer and Mr.Nayak, learned counsel for claimants-Respondent Nos.4 to 6 as well as Mr.Mahali, learned counsel for Respondent No.2-Insurer.
3. It is stated by Mr.Nayak that in the meantime Respondent Nos.4 & 5 have expired.
4. Present appeal by the Insurer-Appellant is against the judgment dated 27th April, 2016 of the 11nd Addl. District Judge-Cum- Vth Motor Accident Claims Tribunal, Rourkela in M.A.C. Case No.23 of 2012, wherein compensation to the tune of Rs.10,58,000/- has been granted along with interest @6% per annum with effect from the date of filing of the claim application

on account of death of the deceased in the motor vehicular accident on 8th November, 2011.

5. Two vehicles were involved in the accident Viz. bus bearing registration No.OR-04G-125 and trailer bearing registration No.OR-02AR-6951.

6. Present appeal has been preferred by the Insurer of the trailer and it is contended by Mr.Swain that the Tribunal assessed the monthly income of the deceased on higher side that needs to be reduced to Rs.10,000/- per month only.

7. Upon hearing all the parties and perusal of the impugned judgment, it reveals that the Tribunal for computing the income of the deceased relied on the I.T. return filed by the deceased under Ext.8/2. The deceased was serving as Manager in Seenet Consultancy Private Limited and he was an income tax assessee. Exts.7 & 8 are the I.T. returns filed by the deceased prior to his death and thus basing on the same, the Tribunal took monthly income of the deceased at Rs.16,000/-. Thus, no flaw is seen in the approach of the Tribunal fixing monthly income of the deceased at such amount. No supporting reason is seen in the contention of Mr.Swain to reduce the amount to Rs.10,000/- per month and accordingly, the same is rejected.

8. In the result, the appeal is dismissed and the Appellant is directed to deposit the compensation amount as per his share in terms of the direction of the Tribunal within a period of two months from today, which shall be disbursed in favour of the claimant nos.6, 7 & 8 on such terms and proportion as fixed by the Tribunal.

9. The statutory deposit made by the Appellant with accrued interest thereon be refunded to him on proper application and on production of proof of deposit of the award amount before the learned Tribunal.

10. Urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge

C.R.Biswal

