

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.321 of 2020

The Divisional Manager, The Appellant
New India Assurance Co. Ltd.

-versus-

Lekon Infrastructure Pvt. Ltd. Respondents
& Ors.

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
05.07.2022

Order No

09.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. S.K. Swain, learned counsel appearing for the Appellant-Company and Mr. K.C. Nayak, learned counsel appearing on behalf of Claimant-Respondent Nos. 2 & 3.
3. This appeal has been filed by the Appellant-Company challenging the Judgment passed by the learned District Judge – cum- 1st MACT, Kendrapara on 31.10.2019 in MAC Case No.73 of 2013.
4. Mr. Swain, learned counsel for the Appellant-Company submitted that learned Tribunal without proper appreciation of the grounds taken by the Appellant-Company held the Claimants-Respondents entitled to get compensation amount of Rs. Rs.20,18,346/- (Rs. Twenty lakh eighteen thousand three hundred forty six) along with interest @ 6% per annum payable from the date of application till its realization.

5. Mr. Swain further submitted learned Tribunal while dealing with the matter never take into consideration the grounds raised by the Appellant-Company towards contributory negligence on the part of the deceased and various other grounds. Mr. Swain accordingly prayed for interference of this Court in the impugned Judgment.

6. Mr. Nayak, learned counsel appearing for the Claimants-Respondents on the other hand submitted that learned Tribunal after proper appreciation of the materials available on record rightly assessed the compensation by directing the Appellant-Company to pay the compensation amount of Rs.20,18,346/- (Rs. Twenty lakh eighteen thousand three hundred forty six) along with interest @ 6% per annum. Mr. Nayak accordingly submitted that no interference is called for.

7. Heard learned counsel appearing for the respective Parties. Perused the materials available on record. This Court considering the grounds taken in the appeal and the materials available on record when came to a conclusion that the Claimants-Respondents will be entitled to get compensation amount of Rs.18,50,000/- (Rs. Eighteen lakh fifty thousand) by keeping rate of interest intact, Mr. Nayak, learned counsel appearing for the Claimants-Respondents supported the said view of this Court. Mr. Swain, learned counsel appearing for the Appellant-Company left the same to the discretion of this Court.

9. In view of such stand taken by the learned counsel appearing for both the Parties, this Court while disposing the appeal held that the Claimants-Respondents will be entitled to get compensation amount of Rs.18,50,000/- (Rs. Eighteen lakh fifty thousand) along

with interest so awarded by the learned Tribunal in its order dtd.31.10.2019. This Court accordingly directs the Appellant-Company to deposit the aforesaid compensation amount of Rs.18,50,000/- (Rs. Eighteen lakh fifty thousand) along with interest so awarded by the learned Tribunal within a period of eight (8) weeks from the date of receipt of this Order.

10. It is observed that on such deposit of the amount so directed hereinabove, learned Tribunal shall disburse the same in favour of the Claimants-Respondents proportionately and in terms of the order passed on 31.10.2019. It is however observed that if the Appellant-Company will fail to deposit the aforesaid compensation amount so assessed by this Court within the time indicated hereinabove, the Claimants-Respondents will be entitled to get interest @ 7% per annum for the period starting from the expiry of the period of 8(eight) weeks till its payment.

11. It is further observed that only after deposit of entire amount along with interest before the learned Tribunal as directed hereinabove, the Appellant-Company shall be permitted to take refund of the statutory deposit along with accrued interest thereon from the Registry of this Court on proper identification.

12. The appeal is disposed of in terms of the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha