

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.325 of 2020

**M/s. New India Assurance Co. Appellant
Ltd.**

-versus-

Sunita Sahu & Ors. Respondents

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
24.06.2022**

Order No

06.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. S.S. Rao, learned counsel appearing for the Appellant-Company and Mr. D. Mund, learned counsel appearing on behalf of Claimant-Respondent Nos. 1, 3 & 4.
3. This appeal has been filed by the Appellant-Company challenging the compensation awarded by the learned Tribunal vide its Judgment dtd.29.01.2020 passed in MAC Case No. 29 of 2017 by the learned 3rd MACT, Dharamgarh in the district of Kalahandi.
4. Mr. Rao, learned counsel appearing for the Appellant submitted that learned Tribunal while assessing the compensation assessed the future prospect at 50%, which should have been at 40%. It is also submitted that learned Tribunal has assessed the compensation at a higher rate towards funeral expenses, love and affection and for loss of estate.

5. It is also submitted that even though the Appellant-Company in their written statement took a stand that due to contributory negligence of the deceased, the incident occurred, but the said fact was not taken into consideration by the learned Tribunal in its proper prospective. Accordingly, Mr. Rao submitted that the compensation amount so awarded by the learned Tribunal is on the higher side as well as the interest so allowed @ 7% per annum. Mr. Rao accordingly prayed for interference of this Court in the impugned Judgment. Mr. Mund, learned counsel appearing for the Claimants-Respondent Nos.1, 3 & 4 though supported the impugned Judgment, but fairly agreed that learned Tribunal has assessed the compensation at a higher rate towards funeral expenses, love and affection and for loss of estate. Mr. Mund also fairly submitted that the future prospect should not have calculated at 50% instead of 40%.

6. Heard learned counsel for the Parties at length. Perused the materials available on record. Taking into account the stand taken by learned counsel appearing for both the Parties, this Court when came to a conclusion that the compensation awarded by the learned Tribunal is on the higher side and the Claimants-Respondents will be entitled to get compensation amount of Rs.45,00,000/- (Rs. Forty five lakh) along with interest @ 6% per annum payable from the date of application till its payment. Mr. Mund, learned counsel appearing for the Claimants-Respondent Nos.1, 3 & 4 supported the said view of this Court. Mr. Rao, learned counsel appearing for the Appellant-Company left the said view to the discretion of this Court.

7. In view of such stand taken by learned counsel appearing for both the Parties, this Court while interfering with the impugned

Judgment held that the Claimants-Respondents will be entitled to get compensation amount of Rs.45,00,000/- (Rs. Forty five lakh) along with interest @ 6% per annum payable from the date of application i.e. 22.08.2017 till its payment. This Court accordingly directs the Appellant-Company to deposit the aforesaid compensation amount of Rs.45,00,000/- (Rs. Forty five lakh) along with interest so awarded hereinabove before the learned Tribunal within a period of eight (8) weeks from the date of receipt of this Order.

8. 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 29.01.2020. It is further observed that if the Appellant-Company will fail to deposit the aforesaid compensation amount so assessed by this Court within the time stipulated 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.

9. 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.

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

(Biraja Prasanna Satapathy)
Judge

Sneha