

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.1309 of 2017

Divisional Manager, United Appellant
India Insurance Co. Ltd.

-versus-

Susama Manjari Panda & Ors. Respondents

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
23.06.2022

Order No
08.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. B. Dasmohapatra, learned counsel appearing for the Appellant-Company and Mr. P.K. Behera, learned counsel appearing on behalf of Claimant-Respondent Nos. 1 & 2.
3. This appeal has been filed by the Appellant-Company challenging the award passed in Judgment dtd.08.08.2017 passed in MAC Case No. 35 of 2016 by the learned 3rd MACT, Dharamgarh in the district of Kalahandi.
4. Mr. Mohapatra, learned counsel for the Appellant vehemently submitted that in absence of any document produced by the Claimants in support of the monthly income of the deceased, learned Tribunal committed illegality in holding the monthly income of the deceased at Rs.15,000/- (Rs. Fifteen thousand) per month. Because of such wrong assessment of the monthly income,

learned Tribunal assessed the compensation accordingly and directed the Appellant-Company to pay compensation amount of Rs.10,10,000/- (Rs. Ten lakh ten thousand) along with interest @ 9% per annum from the date of filing of the application till its payment. It is also submitted that rate of interest allowed @ 9% per annum is also on the higher side and the prevailing rate of interest at that point of time could not be @ 9% per annum. Making all such submissions he prayed for interference of this Court with regard to the compensation awarded vide the impugned Judgment and the rate of interest.

5. Mr. Behera, learned counsel appearing for the Claimants-Respondents while being confronted with the said submissions of the learned counsel appearing for the Appellant, he also failed to satisfy this Court with regard to the filing of any document in support of the monthly income of the deceased. The record also shows that no document with regard to the monthly income of the deceased was either produced or exhibited. Therefore, in absence of any document filed or exhibited, learned Tribunal should not have held the monthly income of the deceased at Rs.15,000/- (Rs. Fifteen thousand) per month. Not only that learned Tribunal also held the interest @ 9% per annum, which was not the rate of interest prevalent at that point of time. At this point of time Mr. Mohapatra, learned counsel appearing for the Appellant submitted that taking into account the occupation of the deceased, the monthly income should have been assessed taking him as a skilled labour i.e. Rs.207 (Two hundred seven) per day.

6. Heard learned counsel for the Parties at length. Perused the materials available on record. Having heard learned counsel

appearing for the Parties, this Court when came to a conclusion that the compensation awarded by the learned Tribunal along with interest is on the higher side and the Claimants-Respondents will be entitled to get compensation amount of Rs.6,00,000/- (Rs. Six lakh) with interest payable @ 6% per annum from the date of filing of the application till its payment. Mr. Behera, learned counsel appearing for the Claimants-Respondent Nos.1 & 2 supported the said view of this Court. Mr. Mohapatra, 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 the 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.6,00,000/- (Rs. Six lakh) with interest payable @ 6% per annum from the date of filing of the application till its payment. This Court accordingly directs the Appellant-Company to deposit the aforesaid compensatin amount of Rs.6,00,000/- (Rs. Six lakh) with interest payable @ 6% per annum before 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 compensation amount along with interest within the time indicated hereinabove, learned Tribunal shall disburse the same in terms of order dt.08.08.2017. It is however observed that if the Appellant fails to deposit the amount so assessed by this Court within the time indicated, then the compensation amount of Rs.6,00,000/- (Rs. Six lakh) will carry 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

