

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA NO.125 OF 2017 & MACA NO.100 OF 2017

From the judgment dated 25.10.2016 passed by the learned Court of Motor Accident Claims Tribunal, III, Bhadrak in M.A.C No.144 of 2011.

MACA NO.125 OF 2017

.....
Tapaswini Mohanty & Others ... Appellants

-versus-

Jitendra Behera & Others ... Respondents

For Petitioner: M/s. P.B. Sinha, Advocate

For Opp. Parties: M/s. A.A. Khan, Advocate,

MACA NO.100 OF 2017

Bharati Axa GIC Ltd. & Appellants
Another

-versus-

Smt. Tapaswini Mohanty Respondents
& Others

For Petitioner : M/s. A.A. Khan, Advocate

For Opp. Parties: M/s. P.B. Sinha, Advocate

PRESENT:

THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 10.05.2022 and Date of Order:30.06.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.

- 2.** Since both the appeals arise out of a common judgment, the same are taken up analogously for hearing and disposed of by this common order.
- 3.** Heard Mr. P.B. Sinha, learned counsel for the claimants and Mr. A.A. Khan, learned Counsel appearing for the Company- insurer.
- 4.** Both the appeals have been filed challenging the judgment dated 25.10.2016 passed in M.A.C. No.144 of 2011 by the learned M.A.C.T,III, Bhadrak. Learned Tribunal vide the said judgment while allowing the claim of the claimants directed the insurer to pay compensation of Rs.20,89,000/- along with interest @7% per annum from the date of application i.e. till its realization.
- 5.** Mr. Sinha, learned counsel appearing for the claimants submitted that the compensation awarded by the learned Tribunal needs further enhancement as learned Tribunal has not considered the materials placed in its proper perspective.
- 6.** Per contra, Mr. Khan, learned counsel appearing for the insurer while assailing the said judgment submitted that

learned Tribunal has committed illegality in holding the monthly income of the deceased at Rs.9,000/-, though no proof to that effect was produced by the claimants. It is also submitted that learned Tribunal added 50% towards future prospect which should have been 40% in view of the age of the deceased at the time of the accident. Accordingly, Mr. Khan prayed for interference of this Court on the compensation awarded by the learned Tribunal to be paid by the insurer. Mr. Khan, learned counsel for the respondents-company also submitted that the rate of interest allowed by the learned Tribunal @7% per annum is also on the higher side.

7. Mr. Sinha, learned counsel appearing for the claimants-respondents though supported the impugned judgment, but failed to satisfy this Court with regard to the submission made by Mr. Khan regarding proof of income and amount awarded towards future prospect. Mr. Sinha also fairly conceded that future prospect should have been taken @40%.

8. Heard learned counsel for the parties at length. Perused the materials available on record.

9. Therefore, taking everything into consideration, this Court when came to a conclusion that the claimants will be

entitled to get compensation of Rs.16,00,000/- along with interest @ 6% per annum payable from the date of application till its realization. Mr. Sinha, learned counsel for the claimants supported the aforesaid view of this Court.

Mr. Khan, learned counsel for the insurer, on the other hand, left the same to the discretion of the Court.

11. In view of such stand taken by the learned counsel for both the parties, this Court while interfering with the impugned judgment directs the insurer to pay the aforesaid compensation amount of Rs.16,00,000/- along with interest payable @6% per annum from the date of application till its realization within a period of eight weeks from the date of receipt of this order.

12. It is further directed that the insurer shall deposit the aforesaid compensation amount along with interest, so assessed by this Court, before the learned Tribunal within the time indicated hereinabove.

13. It is also observed that on such deposit of the compensation amount along with the accrued interest, learned Tribunal shall disburse the same in favour of the claimants-

proportionately in terms of the earlier order passed on 25.10.2016.

14. It is however observed that if the appellant-company fails to deposit the compensation amount along with interest as directed hereinabove within the time stipulated, the claimants will be entitled to get interest @7% per annum for the period starting from expiry of the period of eight weeks till the date of payment on the compensation amount of Rs.16,00,000/-.

15. It is further observed that only after deposit of the compensation amount along with interest so assessed by this Court, the appellant-company shall be permitted to take refund of the statutory deposit along with accrued interest from the Registry of this Court on proper identification.

16. The MACAs are accordingly disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 30th June, 2022/sangita