

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.337 of 2020

The Divisional Manager, National Insurance Co. Ltd. ***Appellant***

Mr. P.K. Mahali, Advocate

-versus-

Smt. Kanakalata Rout and others ***Respondents***

Mr. A.K. Sahoo, Advocate for Respondent Nos.1, 2 & 4

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

09.12.2022

Order No.

09.

1. Heard Mr. P.K.Mahali, learned counsel for the Appellant-Insurance Company as well as Mr. A.K. Sahoo, learned counsel for the Respondent Nos.1, 2 & 4-claimants.

2. Present appeal by the insurer is directed against the judgment dated 16.09.2019 of learned M.A.C.T.-I, Balasore in M.A.C. Case No.131 of 2017, wherein compensation to the tune of Rs.6,35,000/- has been granted along with interest @7.5% per annum to the claimants from the date of filing of the claim application, i.e. 30.03.2017 on account of death of the deceased in the motor vehicular accident dated 20.12.2014.

3. Mr. P.K. Mahali, learned counsel contends for the Appellant-Insurance Company that the offending vehicle, i.e. OR-01-L-1947 is not involved in the accident, but has been implanted subsequently. He continues to submit that neither in the FIR nor in the investigation report of Police, any mention is there about

present offending vehicle regarding its involvement in the accident.

4. Upon perusal of the impugned judgment, it is seen that Simulia P.S. Case No.324 of 2014 was registered concerning the accident, wherein the Police submitted its investigation report stating no clue. The contents of the FIR reveal involvement of an unknown four wheeler and subsequently, the claimants filed ICC Case No.33 of 2017 mentioning involvement of the present offending vehicle in the accident. Accordingly, the learned Magistrate took cognizance in the criminal prosecution against the driver of the offending vehicle. Apart from all, the owner in his WS has admitted involvement of the offending vehicle in the accident and the concerned driver. Therefore, no more merit is seen in the submission of Mr. Mahali to doubt involvement of the offending vehicle in the accident.

5. Next coming to the question of quantum of compensation, considering all such grounds including the submission that the deceased was undisputedly a labourer on the date of accident, i.e. 20.12.2014 and the prevalent rate of minimum wage, a reduced compensation of Rs.4,50,000/- along with 6% interest is proposed to the parties in course of hearing. Mr. A.K. Sahoo, learned counsel for the claimants agrees to the same and Mr. P.K. Mahali, learned counsel for the Appellant-Insurance Company leaves it to the discretion of the Court. The compensation amount is accordingly fixed to that extent.

6. In the result, the Appellant – Insurance Company is directed to deposit the reduced compensation of Rs.4,50,000/- (rupees four lakhs fifty thousand) before the Tribunal along with interest @6% per annum from the date of filing of the claim application, i.e. 30.03.2017 within a period of two months from today; whereafter the same shall be disbursed in favour of the claimants- Respondent Nos.1, 2 & 4 on such terms and proportion to be fixed by the Tribunal.

7. On deposit of the award amount before the learned Tribunal and filing of a receipt evidencing the deposit with a refund application before this Court, the statutory deposit made before this Court with accrued interest thereon shall be refunded to the Appellant-Insurance Company.

8. The MACA is disposed of with aforesaid directions.

9. An urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge