

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA NO.605 OF 2018

From the Judgment/Order dated 03.02.2018 passed by the learned MACT-I, Balasore in MAC Case No.188/2014.

National Insurance Co. Ltd. :::: Appellant

-:: VERSUS ::-

Smt. Bhagya Patra & Ors. :::: Respondents

MACA NO.532 OF 2018

Gourapriya Mohanty :::: Appellant

-:: VERSUS ::-

Smt. Bhagya Patra & Ors. :::: Respondents

Appeared in this case by Video Conferencing Mode / Hybrid

Mode.

**For Appellant :::: Mr. A. Das, Advocate
(for Company-insurer)**

**For Respondent :::: Mr. P.K. Behera, Advocate
(for Claimants-Respondents)
Mr. S. Nandy, Advocate
(for Respondent No. 3)**

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PRESENT :

THE HON'BLE MR. JUSTICE B.P.SATAPATHY

Date of Hearing- 29.06.2022:: Date of Order- 12.07.2022

B.P.Satapathy, J. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Since issue involved in both the appeals are identical, both the appeals are heard analogously and disposed of by the present order.

3. Heard Mr. Amitabh Das, learned counsel appearing for the Company-insurer and Mr. P.K. Behera, learned counsel appearing on behalf of Claimant-Respondents and Mr. S. Nandy, learned counsel appearing for Respondent No. 3.

4. While MACA No. 605 of 2018 has been filed by the Company-insurer challenging the award passed by the learned MACT -1, Balasore on 03.02.2018 in MACCase No.188 of 2014, MACA No.532 of 2018 has been filed by the Owner-Respondent No. 3 challenging the order allowing right of recovery as against the said owner.

5. Mr. Das, learned counsel for the Company-insurer submitted that learned Tribunal without proper appreciation of the stand taken by the Appellant-Company disposed of the matter vide the impugned Judgment dtd.03.02.2018 by holding the Claimants-

Respondents entitled to get compensation of Rs.6,78,000/- (Rs. Six lakh seventy eight thousand) along with interest @ 7.5% per annum payable from the date of application till its payment.

6. Mr. Das further submitted that not only learned Tribunal did not consider the stand taken by the Company-insurer in its proper prospective, but also allowed interest @ 7.5% per annum, which is at the higher side and the prevalent rate of interest cannot be held to be 7.5% per annum. Mr. Das accordingly prayed for interference of this Court with regard to the award passed by the learned Tribunal.

6. Mr. Behera, learned counsel appearing for the Claimants-Respondents on the other hand though supported the award, but submitted that rate of interest allowed @ 7.5% per annum may be reconsidered by this Court.

7. Mr. Nandy, learned counsel appearing for the owner-Respondent on the other hand submitted that even though no violation of any policy condition was raised, but learned Tribunal while directing the Appellant-Company to pay the compensation, has allowed right of recovery as against the owner. Hence, he prayed for interference of this Court on the same.

8. Heard learned counsel appearing for the respective Parties. Perused the materials available on record. Having considered the same, this Court when came to a conclusion that the Claimants-Respondents will be entitled to get compensation amount of Rs.6,00,000/- (Rs. Six lakh) along with interest @ 6% per annum

payable from the date of application i.e.24.06.2014 till its payment. Mr. Behera, learned counsel appearing for the Claimants-Respondents supported the said view of this Court. Mr. Das, learned counsel appearing for the Company-insurer left the same to the discretion of this Court.

9. In view of such stand taken by the learned counsel appearing for the Parties, this Court while disposing both the appeals held the Claimants-Respondents entitled to get compensation amount of 6,00,000/- (Rs. Six lakh) along with interest @ 6% payable from the date of application i.e. 24.06.2014 till its payment with right of recovery as against the owner-Respondent. This Court accordingly directs the Appellant-Company to deposit the aforesaid compensation amount of 6,00,000/- (Rs. Six lakh) along with interest @ 6% payable from the date of application till its payment 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 03.02.2018. It is however observed that if the Appellant-Company will fail to deposit the aforesaid compensation amount as directed 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. Since this Court upholds the right of recovery as against the owner-Respondent, it is observed if any such application is filed by the Company-insurer for recovery of the amount, learned Tribunal shall consider the same in accordance with law and by giving reasonable opportunity of hearing to the owner-Respondent. 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.

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

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
The 12th July, 2022/Sneha

