

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.265 of 2010

Jasketan Patel & Ors. Appellants

-versus-

**The Branch Manager, N.I. Co. Respondents
Ltd. & Anr.**

MACA No.474 of 2010

**The Branch Manager, N.I. Co. Appellant
Ltd.**

-versus-

Jasketan Patel & Ors. Respondents

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

**ORDER
24.06.2022**

Order No

- 10.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Since both the appeals have been filed challenging the Judgment dtd.28.12.2009 passed in MAC Case No.31 of 2008 by the learned District Judge –cum- 1st MACT, Sundargarh, both the appeals are heard and disposed of by this common order.
3. While MACA No.265 of 2010 has been filed by the Claimants seeking enhancement of the compensation so awarded by

the learned Tribunal in its order dtd.28.12.2009, MACA No.474 of 2010 has been filed by the Company-insurer challenging the compensation so awarded vide the aforesaid Judgment dtd.28.12.2009.

4. It is the case of the Appellant in MACA No.265 of 2010 that even though the claim application was made raising a claim of Rs.6,00,000/- (Rs. Six lakhs) and the same was duly allowed by the learned Tribunal in its Judgment dtd.28.12.2009, but learned Tribunal did not take into consideration the monthly income of the deceased in its proper prospective.

5. It is submitted that taking into account the monthly income assessed by the learned Tribunal, learned Tribunal should have allowed higher compensation as against the claim made vide Judgment dtd.28.12.2009.

6. Mr. Sahoo, in support of his stand in MACA No.265 of 2010 also relied on a decision of the Hon'ble Apex Court rendered in Civil appeal No.8251 of 2013. In the said reported decision it has been held by the Hon'ble Apex Court that learned Tribunal while dealing with such type of matter should have awarded compensation on various heads.

7. Mr. Das, learned counsel appearing for the Respondent-company in MACA No.474 of 2010 on the other hand submitted that since the claim raised by the Claimants has been allowed in total, no illegality has been committed by the learned Tribunal in passing the impugned Judgment. Mr. Das also further submitted that learned Tribunal on the face of the materials available on record should not have allowed the claim raised by the Claimants.

8. Heard learned counsel for the Parties at length. Perused the materials available on record. Though there is no dispute that the claim raised by the Claimants in their claim Petition has been allowed by the learned Tribunal, but the impugned Judgment is completely silent as to under which headings the compensation amount of Rs.6,00,000/- (Rs. Six lakh) has been awarded. Not only that no calculation has been made by the learned Tribunal while assessing the compensation taking into account the monthly income assessed at Rs.14,470/- (Rs. Fourteen thousand four hundred seventy).

9. In view of such material irregularity in deciding the matter and in view of the decision of the Hon'ble Apex Court as cited (supra), this Court deems it fit to set aside the impugned Judgment dtd.28.12.2009 passed in aforesaid MAC Case No.31 of 2008. While setting aside the same, this Court remand the matter to the learned District Judge –cum- 1st MACT, Sundargarh for fresh disposal. This Court directs that learned Tribunal shall afford reasonable opportunity of hearing to both the Parties to lead further evidence in support of their respective claims.

10. Since the case is of the year 2009 and the claimants have not received a single pie, this Court directs the learned Tribunal to decide the matter afresh within a period of four (4) months from the date of receipt of this order.

11. Both the appeals are disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha