

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**MACA No.613 of 2018**

**The Divisional Manager, New ....  
India Assurance Co. Ltd.**

**Appellant**

*-versus-*

**Pradip Kumar Nayak & Ors. ....**

**Respondents**

**CORAM:  
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER  
31.03.2022**

**Order No**

**12. 1.** This matter is taken up through Hybrid Mode.

**2.** Heard Mr. N.K. Mohanty, learned counsel appearing for the Appellant-Company and Mr. Pabitra Kumar Nayak and associates on behalf of the Claimants-Respondents.

**3.** This Appeal has been filed challenging the Judgment dated 09.02.2018 passed in MAC Case No.70 of 2015 by the learned 1<sup>st</sup> MACT- cum- District Judge, Dhenkanal.

**4.** Mr. Mohanty, learned counsel for the Appellant-Company while assailing the judgment on various grounds

brought to the notice of this court that learned Tribunal while assessing the compensation has wrongly held the monthly income of the deceased at Rs. 10,000/- (Rupees ten thousand) per month.

**5.** It is submitted by Mr. Mohanty, learned counsel appearing for the Appellant-Company that the deceased being a seasonal crop businessman and without having any proof of his income, learned Tribunal should not have held the monthly income at Rs.10,000/- per month.

**6.** It is also further argued that in absence of any proof of income, learned Tribunal should have assessed the monthly income basing on the minimum wages prevalent at the time of death of the deceased.

**7.** Mr. Mohanty, learned counsel appearing for the Appellant-company also brought to the notice of this court that not only learned Tribunal assessed the compensation at the higher side but also allowed interest @ 7% per annum, which is also not in consonance with the prevailing interest.

**8.** Mr. Mohanty, accordingly prayed for interference of this Court in the impugned judgment. Mr. Nayak, learned counsel appearing for the Claimants-Respondents on the other hand, while supporting the impugned judgment, argued that the deceased was working as a seasonal crop businessman and he laid evidence in support of his income

and that was accepted by the learned Tribunal. Learned Tribunal has therefore committed no illegality in holding the monthly income of the deceased at Rs. 10,000/- (Rupees ten thousand) per month. Accordingly, Mr. Nayak, learned counsel appearing for the Claimants-Respondents prayed for dismissal of the appeal.

**9.** Having heard learned counsel for the Parties at length and the grounds taken in the memo of appeal, this court came to a conclusion that the Claimant-Respondents will be entitled to get compensation amount of Rs.8,00,000/- (Rupees eight lakhs) with interest @ 6% per annum payable from the date of filing of the claim application i.e. 18.03.2015 till its payment.

**10.** Mr. Nayak, learned counsel appearing for Claimants-Respondents supported the aforesaid view of this court. Mr. Mohanty, learned counsel appearing for the Appellant-Company left the aforesaid view to the discretion of this court.

**11.** In view of such stand taken by the respective counsels appearing for the Appellant-Company and Claimants-Respondents and while interfering with the impugned judgment, this court directs the Appellant-Company to pay compensation amount of Rs.8,00,000/- (Rupees eight lakhs) along with interest @ 6% per annum payable from the date of filing of the claim-application i.e. 18.03.2015 till

its payment within a period of eight weeks from today. On deposit of the entire amount as directed by this court, learned Tribunal will pass appropriate order for payment in proportion to the earlier order passed by the said Court in favour of the Claimants-Respondents.

**12.** It is observed that only after deposit of the compensation amount along with the interest so assessed by this Court within the time fixed by this Court, Appellant-Company will be permitted to take refund of the statutory deposit along with accrued interest from the Registry of this Court on proper identification.

**13.** The Appeal is accordingly disposed of.

**(Biraja Prasanna Satapathy)**  
**Judge**

*Sneha*