

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.359 of 2020

M/s. New India Assurance Co. Ltd.* *Appellant

Mr. P.K. Panda, Advocate

-versus-

Sitanath Mohanty and Another* *Respondents

Mr. B.N. Rath, counsel for Respondent No.1

CORAM:

SHRI JUSTICE B. P. ROUTRAY

ORDER
21.3.2022

Order No.

04. 1. Heard Mr. P.K. Panda, learned counsel for the insurer – Appellant and Mr. B.N. Rath, learned counsel for claimant – Respondent No.1.
2. Present appeal by the insurer has been filed challenging the common judgment dated 30th December, 2019 of learned 2nd MACT, Cuttack passed in Misc. Case Nos.149 and 150 of 2008. The present appeal is concerning the award passed in Misc. Case No.149 of 2008 wherein compensation to the tune of Rs.1,05,975/- along with interest @ 7% per annum from the date of filing of the claim application, i.e. 17th March, 2008 has been granted on account of injuries sustained by the claimant in the motor vehicular accident dated 23rd February, 2007.

3. It is contended on behalf of the Appellant that the accused driver as well as the offending truck having been involved in number of accidents, the case of the claimant to get compensation is not sustainable. This submission of the insurer is rejected in absence of any evidence brought on record to that effect. Secondly, no logic is there in the contention of the Appellant that since the accused is involved in more than one accident at different points of time, the claim of compensation contemplated under Sec.166 of the M.V. Act would be nullified on that ground.

4. Having heard both parties and considering the grounds advanced with regard to the quantum, a reduced compensation of Rs.90,000/- along with interest @ 6% per annum is proposed to the parties in course of hearing. This is agreed by Mr. Rath, learned counsel for the claimant and Mr. Panda, learned counsel for the insurer leaves it to the discretion of the Court. As such the amount is fixed to the above extent.

5. In the result the appeals is disposed of with a direction to the insurer - Appellant to deposit the reduced compensation amount of Rs.90,000/- (ninety thousand) before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 17th March, 2008 within a period of two months from today; whereafter the same shall be disbursed in favour of the claimant on such terms and proportion to be fixed by the learned Tribunal.

6. The statutory deposit made by the appellant before this court along with accrued interest be refunded to the Appellant - insurer on

proper application and on production of proof of deposit of the awarded amount before the tribunal.

7. The appeal is disposed of.
8. An urgent certified copy of this order be issued as per rules.

(B.P. Routray)
Judge

M.K.Panda

