

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.769 of 2012

Manarama Palai and Another* *Appellants

Mr. S.B. Udgata, Advocate

-versus-

Kartika Chandra Mohanty and Another* *Respondents

Ms. S. Das on behalf of Mr. P.K. Mohanty,
counsel for Respondent No.2

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
15.12.2022

Order No.

13. 1. The matter is taken up through hybrid mode.
2. Heard Mr. S.B. Udgata, learned counsel for the claimant – Appellants and Ms. S. Das on behalf of Mr. P.K. Mohanty, learned counsel for insurer – Respondent No.2.
3. Present appeal by the claimants is against the impugned judgment dated 9th April, 2012 of learned 2nd MACT, N.D., Sambalpur passed in MAC No.160 of 2010 (S.B.P.), wherein compensation to the tune of Rs.6,60,000/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 14th December, 2010 has been granted on account of death of deceased Radhakanta Palei in the motor vehicular accident dated 12th November, 2010.
4. Mr. Udgata, learned counsel contends on behalf of the claimants that the tribunal first of all has took a reduced amount of

income of the deceased and further, did neither add future prospects to his income nor grant adequate amount for consortium. The tribunal also applied a wrong multiplier taking the age of the parents, instead of the deceased.

5. Ms. Das, on the other hand submits that the Tribunal while arriving annual income of the deceased at Rs.1,00,000/- took note of the copies of income tax (I.T.) returns filed under Ext.12 to Ext.14, which justifies such assessment of the tribunal. She further submits that, the deceased being a bachelor, the Tribunal considered the age of his parents for multiplier purpose.

6. It is seen that under Ext.12 to 14 are the copies of IT returns for the assessment years (AY) 2007-08, 2008-09 and 2009-10 and the income for the AY 2007-08 was Rs.99,800/-, Rs.1,13,000/- for AY 2008-09 and Rs.1,55,000/- for AY 2009-10. The average income for last three assessment years thus comes to Rs.1,22,600/- and therefore, the assessment made by the Tribunal in fixing the annual income at Rs.1,00,00/- is found justified. It is for the reason that no other document or material could be produced on record with regard to income of the deceased to such extent or his employment as a Sub-contractor.

7. It is further seen from the impugned judgment that, the Tribunal taking the average age of the parents of the deceased applied multiplier '13', though the deceased was undisputedly aged about 24 years. The law has been well-settled now in the case of ***Sarala Verma(smt) vs- Delhi Transport Corporation & another, (2009) 6 SCC 121***, and in ***National Insurance Company Ltd. v. Pranay Sethi***

and Others (2017) 16 SCC 680 that, the age of the deceased has to be considered for the purpose of determining multiplier. Thus, in the instant case the appropriate multiplier is found to be '18'.

8. Confirming the income of the deceased at Rs.1,00,000/- per annum and after adding 40% to the same towards future prospects, the total loss of dependency comes to Rs.12,60,000/-. Adding Rs.1,00,000/- thereto towards consortium to both the parents as well as general damages (keeping the date of death in view), the total compensation amount is determined at Rs.13,60,000/-, payable along with interest @ 6% per annum.

9. In the result, the appeal is disposed of with a direction to the insurer – Respondent No.2 to deposit a total compensation of Rs.13,60,000/- (thirteen lakhs sixty thousand) before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 14th December, 2010, within a period of two months from today; where-after the same shall be disbursed in favour of the claimant – Appellants on such terms and proportion to be decided by learned tribunal.

10. In case the amount directed by the Tribunal has been realized by the claimants in the meantime, the same shall be adjusted from the total compensation amount directed above.

11. An urgent certified copy of this order be issued as per rules.

(B.P. Routray)
Judge