

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.365 of 2020

MACA Nos.365 & 511 of 2020

***The Divisional Manager, New India
Assurance Company Ltd***

(in MACA No.365/2020)

Sabita Mohapatra

(in MACA No.511/2020)

Appellants

....
Mr. Subrat Satpathy, Advocate (in MACA No.365/2020)
Mr. B.N. Samantaray, Advocate (in MACA No.511/2020)

-versus-

Sabita Mohapatra and Another ***(In MACA No.365/2020)***

Sanjaya Parida and Another ***(In MACA No.511/2020)***

Respondents

....
Mr. B.N. Samantaray, counsel for Respondent No.1
(in MACA No.365/2020)

Mr. Subrat Satpathy, counsel for Respondent No.2
(in MACA No.511/2020)

CORAM:

SHRI JUSTICE B. P. ROUTRAY

ORDER

1.8.2022

Order No.

- 05.
1. The matters are taken up through hybrid mode.
 2. Both the appeals being arise out of the same judgment, are heard together and disposed of by this common order.
 3. Heard Mr. S. Satpathy, learned counsel for the insurer and Mr. B.N. Samantaray, learned counsels for claimant.

4. MACA No.365 of 2020 is filed by the insurer challenging the award whereas MACA No.511 of 2020 has been filed by the injured-claimant praying for enhancement of the compensation amount.

5. Learned 1st MACT, Cuttack in the impugned judgment dated 24th December, 2019 passed in MAC Case No.287 of 2016 has directed on account of injuries sustained by the claimant in the motor vehicular accident dated 6th March, 2016, for payment of compensation to the tune of Rs.4,50,000/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 21st April, 2016.

6. All such submissions as advanced by Mr. S. Satpathy, learned counsel for the insurer, except the challenge with regard to quantum of compensation, need not be discussed here in view of the judgment passed today in the connected appeals in MACA Nos.366 of 2020 and 512 of 2020.

7. It is submitted by Mr. Satpathy on the aspect of quantum that the treatment of the injured Sabitri Mohapatra in Amri Hospital is doubtful and therefore such expenses of treatment counted by the tribunal in respect of Amri Hospital is liable to be deducted.

8. Conversely, it is submitted by Mr. Samantaray, learned counsel for the injured-claimant that, though the medical bills exhibited before the learned tribunal show expenditure of Rs.5,04,277/- still the tribunal awarded a sum of Rs.4,50,000/- only without disbelieving or disputing such medical bills.

9. It is seen from the impugned judgment that the tribunal has granted aforesaid compensation of Rs.4,50,000/- in total including all such heads like medical expenses, attendant cost, pain and suffering etc. without assigning any specific reason for arriving at such amount.

10. The submission of Mr. Satpathy that the treatment of the injured in Amri Hospital is doubtful on the ground that P.W.4, a staff of said hospital by coming to the witness box, has not confirmed about any prior treatment of the injured in Aswini Hospital, is not found sustainable. It is for the reason that admittedly, P.W.4 is no-way connected with the treatment of the injured in Aswini Hospital. So, whatever he says regarding treatment of the injured in Aswini hospital cannot be believed. Admittedly, he does not deny the treatment of the injured in Amri Hospital. But for failure on his part to say about the details of treatment in Amri Hospital, it would not be proper to entirely exclude such expenses of the injured in Amri Hospital as contended by Mr. Satpathy. However, considering the nature of evidence adduced by said P.W.4, particularly in view of his statement made in the cross-examination, the approach of the tribunal in granting total compensation of Rs.4,50,000/- cannot be faulted with definite reasons. As such I do not see any merit in the contentions of both parties to interfere with the award of such compensation by the tribunal, which is confirmed.

11. Resultantly, both the appeals are dismissed.

12. However, the right of recovery, as granted in favour of the insurer – Appellant in MACA No.365 of 2020 is not disturbed by this court.

13. The statutory deposit made by the insurer - Appellant in MACA No.365 of 2020 before this court along with accrued interest be refunded to the insurer on proper application and on production of proof of deposit of the awarded amount before the tribunal.

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

(B.P. Routray)
Judge

M.K.Panda

