

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA NO.521 OF 2016

From the Judgment/Order dated 03.09.2015 passed by the learned 1st M.A.C.T, Deogarh in M.A.C Case No.12 of 2013.

**Divisional Manage,
Oriental Insurance Co. Ltd. :::**

Appellant

--: VERSUS :-

Bhramara Jharia & Ors. :::

Respondents.

Appeared in this case by Video Conferencing Mode /

Hybrid Mode.

For Appellant ::: Mr. P.K. Mahali, Advocate

For Respondents ::: Mr. A.K. Nayak
(for Respondent No.2)

PRESENT :

THE HON'BLE MR. JUSTICE B.P.SATAPATHY

Date of Hearing- 22.04.2022:: Date of Order- 29.04.2022

B.P.Satapathy, J. This matter is taken up through Hybrid Mode.

2. Heard Mr. P.K. Mahali, learned counsel for the Appellant and Mr. A.K. Nayak, learned counsel appearing for the Claimant-Respondent No. 2.

3. This appeal has been filed by the Appellant-Company challenging the judgment passed by the learned District Judge –cum- 1st MACT, Deogarh dtd.03.09.2015 in MAC Case No.12 of 2013.

4. Learned Tribunal vide the said judgment while allowing the claim of the Claimants-Respondents, directed the Appellant-Company to pay compensation amount of Rs.4,18,500/- (Rupees four lakh eighteen thousand five hundred) along with interest @ 6% per annum payable from the date of filing of the application i.e. 19.03.2013 till its payment with future interest @ 9% per annum.

5. Mr. Mahali, learned counsel for the Appellant while assailing the impugned judgment mainly relied on the grounds taken in ground No.2 of the appeal memo. It is submitted that since violation of policy condition was raised by the Appellant-Company, learned Tribunal while assessing the compensation should have allowed right of recovery as against the owner/Respondent No.6. It is also submitted that learned Tribunal while allowing the compensation has taken the income of the deceased at the higher side. Accordingly, Mr. Mahali sought for interference of this Court in the impugned judgment passed by learned Tribunal.

6. Mr. Nayak, learned counsel appearing for Claimant-Respondent No.2 on the other hand submitted that learned Tribunal taking into account the materials available on record rightly allowed the claim and no interference is required to the same.

7. Having heard learned counsel for the Parties and after going through the materials available on record, this Court came to a conclusion to reduce the compensation amount to Rs.3,20,000/- (Rupees three lakh twenty thousand) with interest @ 6% per annum payable from the date of application i.e. 19.03.2013 till its payment with right of recovery as against the owner-Respondent No.6.

8. Mr. Nayak, learned counsel appearing for the Claimant-Respondent No.2 while supported the aforesaid view of this Court, Mr. Mahali, learned counsel appearing for the Appellant-Company left the said view to the discretion of this Court.

9. In view of such submission made by the counsel appearing for both the Parties, this Court while interfering with the impugned judgment, direct the Appellant-Company to pay compensation amount of Rs.3,20,000/- (Rupees three lakh twenty thousand) with interest @ 6% per annum payable from the date of filing of the application i.e. 19.03.2013 till its payment within a period of 8 (eight) weeks from the date of receipt of this order with right of recovery as against the owner-Respondent No.6. It is directed that the Appellant-Company shall deposit the compensation amount along with interest so assessed by this Court within the period indicated hereinabove before the learned Tribunal.

10. It is observed that on such deposit of the compensation amount along with interest as fixed by this Court, learned Tribunal shall disburse the same in favour

of the Claimants-Respondents proportionately and in terms of the order passed on 03.09.2015.

11. It is further observed that if any such application for recovery is made by the Appellant-Company, learned Tribunal shall proceed with the same in accordance with law as against the owner-Respondent No.6 and by giving her reasonable opportunity of hearing.

12. It is also observed that if the Appellant-Company fails to deposit the compensation amount along with interest so assessed by this Court within the time indicated hereinabove, the compensation amount shall carry interest @ 7% from the date of expiry of the period of 8 (eight) weeks till its payment.

13. It is further observed that only after deposit of the entire amount as directed by this Court before learned Tribunal within the time indicated hereinabove, the Appellant-Company shall be permitted to take refund of the statutory deposit from the Registry of this Court along with accrued interest on proper identification.

14. With the aforesaid observation and direction, the appeal is disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
The 29th April, 2022/Sneha