

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.644 of 2015

Mamata Patra @ Ghadei and Others *Appellants*
Mr. Bikram Ch. Ghadei, Advocate
-versus-
Smt. Sulochana Sahoo and Another *Respondents*
Mr. S.Satapathy, counsel for Respondent No.2

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
12.12.2022

Order No.

11. 1. The matter is taken up through hybrid mode.
2. Heard Mr. B.C. Ghadei, learned counsel for the claimant–Appellants and Mr. S. Satapathy, learned counsel for insurer – Respondent No.2.
3. Present appeal by the claimants is against the impugned judgment dated 12th March, 2015 of the learned 4th MACT, Cuttack passed in MAC No.441 of 2009, wherein compensation to the tune of Rs.14,66,056/- along with interest @ 6% per annum from the date of filing of the claim application has been granted on account of death of deceased Bikash Chandra Ghadei in the motor vehicular accident dated 12th June, 2009.
4. It is submitted on behalf of the claimant – Appellants that the tribunal while counting income of the deceased has illegally left HRA and other allowances from the fray, which are liable to be added as income.
5. It is seen that the deceased, aged about 41 years, was serving as Head Accountant in OSL Hundai (P) Ltd., Cantonment Road, Cuttack and getting salary of Rs.20,833/-. But the tribunal only counted the

basic pay of Rs.10,000/- received by the deceased, leaving all other amounts. Law is well settled that the entire amount received towards salary by the deceased minus statutory deductions is to be counted towards income except such specific allowances that are attached to the post for such peculiar nature of job.

6. In the instant case, the approach of the tribunal is thus found erroneous and the entire salary of Rs.20,833/-, minus professional tax and income tax payable towards at the applicable rate, should be counted for the purpose. Accordingly, without disturbing all other factors counted by the tribunal, a further consolidated sum of Rs.13,00,000/- is proposed to the parties (including consequential interest @ 6% per annum on the differential amount, from the date of filing of the claim application). This is agreed by Mr. Ghadei, learned counsel for the claimant – Appellants and Mr. Satapathy, learned counsels for the insurer leaves it to the discretion of the court. Accordingly the compensation amount is fixed to the said extent.

7. In the result the appeal is disposed of with a direction to the insurer – Respondent No.2 to pay a further consolidated sum of Rs.13,00,000/- (thirteen lakhs) to the claimants by depositing the same before the tribunal within a period of two months from today; whereafter the same shall be disbursed in favour of the claimant – Appellants on such terms and proportion to be decided by the learned tribunal.

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

(B.P. Routray)
Judge