

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.462 of 2020

M/s. National Insurance Co. Ltd. ***Appellant***
Mr.B.Dasmohapatra, Advocate

-versus-

Niranjan Mohanty and others ***Respondents***
Mr.D.Pattnaik, Advocate for Respondent Nos.1 & 2

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
2.12.2022

Order No.

4.

1. This matter is taken up through Hybrid mode.
2. Heard Mr.Dasmohapatra, learned counsel for the Appellant and Mr.Pattnaik learned counsel for the claimants- Respondents No.1 & 2.
3. Present appeal by the insurer is against the judgment dated 6th November, 2019 of the First Motor Accident Claims Tribunal, in M.A.C. Case No.93 of 2010, wherein compensation to the tune of Rs.2,00,000/- has been granted along with interest @6% per annum with effect from the date of filing of the claim application on account of death of the deceased in the motor vehicular accident on 2nd June, 1994.
4. The case of the claimants are that their son, namely, Sarat Chandra Mohanty @ Anant Mohanty (hereinafter referred

to as 'the deceased') aged about 14 years, died in a motor vehicular accident dated 2nd June, 1994 involving the offending vehicle, i.e. Truck bearing Registration No.OR-01H-9929. The Tribunal, accordingly, directed for payment of compensation of Rs.2,00,000/- (Two lakhs) along with 6% interest. It needs to be stated here that though the Tribunal has framed four issues, but without making any discussion on the issues fixed the amount of compensation payable by the Insurer- Appellant in a very cryptic way.

5. Mr. Dasmohapatra submits for the Insurer that the identity of the deceased being seriously in doubt, the direction of the Tribunal needs to be interfered with in absence of any detailed discussion made therein.

6. The important facts are that, the accident took place on 2nd June, 1994 and the claim application for the first time was presented on 18th September, 2010, i.e., after 17 years 3 months. In the F.I.R., the name of the deceased is mentioned as Anant Mohanty, so also in the inquest report, post mortem examination report and in the death certificate also. However, in the claim application, his name has been mentioned as Sarat Chandra Mohanty @ Ananta Mohanty as stated above. In the school leaving certificate produced before this Court in course of hearing, a copy of which was served on the learned counsel for the claimants on the last occasion, reveals that Sarat Chandra Mohanty, son of Niranjana Mohanty (Claimant No.1) was a student of Class-VIII in Bhagabati High School during the year 1993-94. There was no document at all produced before the

Tribunal to satisfy that Sarat Chandra Mohanty is the same person as Anant Mohanty and both are the same and one, as son of Niranjana Mohanty.

7. Mr. Pattnaik is unable to answer to connect Sarat Chandra Mohanty and Ananta Mohanty as the same and one person, though time was sought for the same by him on the last occasion.

8. It needs to be mentioned here that not a single document is produced on record to reveal that Sarat Chandra Mohanty and Anant Mohanty are the same and one person and son of Niranjana Mohanty. The claim application being filed after 17 years of the accident, a serious doubt is raised to the mind of the Court regarding correct identification of the deceased. It is true that in the F.I.R, Anant Mohanty has been said to be the son of the claimant no.1, but that only thing would not satisfy the requirement to clear the doubt arises in the mind of the Court. So the suspicion being arisen regarding identity of the deceased, which is fortified with the delay in filing the claim application, the direction of the Tribunal to pay the compensation in favour of the claimants is accordingly set aside.

9. In the result, the appeal is allowed and the impugned award amount award is set aside. For the reasons stated above, it is held that the claimants are not entitled to any compensation.

10. The statutory deposit made by the Appellant with accrued interest thereon be refunded to him on proper application.

11. The documents filed by Mr. Dasmohapatra in course of hearing are kept on record.

12. Urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge

C.R.Biswal

