

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.189 of 2021 & MACA No.124 of 2022

In MACA No.189 of 2021

Bibhuti Bhusan Nayak and another ***Appellants***
Mr. K. Rath, Advocate

-versus-

Divisional Manager, National Insurance Company Ltd. and others ***Respondents***
Mr. S. Satapathy, Advocate for Respondent Nos.1 & 2

In MACA No.124 of 2022

The Divisional Manager, National Insurance Company Ltd. and another ***Appellants***
Mr. S. Satapathy, Advocate

-versus-

Bibhuti Bhusan Nayak and others ***Respondents***
Mr. K. Rath, Advocate for Respondent Nos.1 & 2

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
25.08.2022

Order No.

I.A. No.286 of 2022 arising out of MACA No.124 of 2022

- 08.
1. The deficit Court fee be accepted on record.
 2. I.A. is disposed of.

I.A. No.285 of 2022 arising out of MACA No.124 of 2022

3. Since no delay is there as per the stamp reporting, the I.A. is disposed of.

MACA No.189 of 2021 & MACA No.124 of 2022

4. Heard Mr. K. Rath, learned counsel for the claimants and Mr. S. Satapathy, learned counsel for the Insurance Company.

5. Both the appeals being arise out of the same judgment dated 05.04.2021 of the learned 1st MACT, Cuttack in M.A.C. Case No.474 of 2016 wherein compensation to the tune of Rs.9,66,800/- has been granted along with interest @6% per annum to the claimants from the date of filing of the claim application, i.e.23.07.2016 on account of death of the deceased in a motor vehicular accident dated 29.05.2016, are heard together and disposed of by this common order.

6. MACA No.189 of 2021 has been filed by the claimants and MACA No.124 of 2022 has been preferred by the Insurance Company challenging the award.

7. Upon hearing both the parties and considering all such grounds raised by the Insurance Company as well as the claimants in their respective appeals, a reduced compensation of Rs.8,50,000/- along with 6% interest is proposed to the parties in course of hearing. Mr. K. Rath, learned counsel for the claimants agrees to the same and Mr. S. Satapathy, learned counsel for the Insurance Company leaves it to the discretion of the Court. The compensation amount is accordingly fixed to that extent.

8. In the result, both the appeals are disposed of with a direction to the Insurance Company to deposit the reduced compensation of Rs.8,50,000/- (rupees eight lakhs fifty thousand) before the

Tribunal along with interest @6% per annum from the date of filing of the claim application, i.e.23.07.2016 within a period of two months from today; where-after the same shall be disbursed in favour of the claimants on such terms and proportion to be decided by the learned Tribunal. However, as prayed on behalf of the insurer, it is open for him to seek such right of recovery, if recoverable, from the owner of the vehicle in accordance with law after affording opportunity of hearing to the owner.

9. On deposit of the award amount by the insurer before the learned Tribunal and filing of a receipt evidencing the deposit with refund applications before this Court, the statutory deposit made in MACA No.124 of 2022 before this Court with accrued interest thereon shall be refunded to the insurer.

10. An urgent certified copy of this order be granted on proper application.

(**B.P. Routray**)
Judge