

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.833 of 2016

Panchanan Behera

....

Appellant

Mr. Satyabhusan Das, Advocate

-versus-

Ajay Kumar Maharana and Another

....

Respondents

Mr. S.B. Panda, counsel for Respondent No.2

CORAM:

SHRI JUSTICE B. P. ROUTRAY

ORDER

21.12.2022

Order No.

- 08.
1. The matter is taken up through hybrid mode.
 2. Heard Mr. S.B. Das, learned counsel for the claimant – Appellant and Mr. S.B. Panda, learned counsel for the insurer – Respondent No.2.
 3. Present appeal by the injured - claimant is against impugned judgment dated 3rd May, 2016 of the learned 2nd Additional District Judge-cum- MACT, Cuttack passed in MAC No.164 of 2010, wherein compensation to the tune of Rs.6,64,680/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 29th March, 2010 has been granted on account of injuries sustained by the injured – claimant in the motor vehicular accident dated 16th November, 2009.
 4. Mr. Das contends for the Appellant that no future prospects has been added to the income of the injured while computing loss of

future income and secondly, the cost of medical expenses has been reduced by the tribunal to substantial extent without any basis.

5. Mr. Panda, learned counsel for the insurer submits in his reply that the tribunal has well assessed the compensation amount with proper justification for medical expenses. He supports other counts arrived by the tribunal.

6. Upon perusal of the impugned judgment, it is seen that the injured sustained crushed injuries along with fracture of right leg below the knee and he underwent operation twice. He was hospitalized from 16th November, 2009 to 4th January, 2010. As per the disability certificates under Ext.9 & 10, the injured sustained 60% permanent disability. He was a Welder by profession and the tribunal computed his functional disability to the same extent of 60%. There is no infirmity seen in such approach of the tribunal. But one thing is noticed that the tribunal has forgotten to add future prospects to the income of the injured. He being aged about 40 years on the date of accident is entitled for addition of future prospects to the extent of 40%. Further, the tribunal, against the claim of the injured regarding medical expenses to the tune of Rs.1,50,000/-, has only granted Rs.75,000/-. Keeping in view the nature of injuries as well as treatment undergone by the injured and the period of such treatment coupled with sustenance of permanent disability, a further amount of Rs.50,000/- towards medical expenses is liable to be granted in favour of the claimant. Again, a further sum of Rs.50,000/- towards pain and suffering and another sum of Rs.1,00,000/- towards loss of amenities and expectations of life is liable to be awarded in favour of the claimant.

Thus, considering all such factors, the amount of compensation is enhanced to – Rs.2,39,872/- (future prospects) + Rs.50,000/- (medical expenses) + Rs.1,00,000/- (loss of amenities and expectations of life) + Rs.50,000/- (towards pain and suffering) = Rs.4,39,872/- in total, payable along with interest @ 6% per annum.

7. It is submitted by Mr. Das, learned counsel for the claimant that the amount directed by the tribunal has been disbursed in favour of the injured – claimant.

8. In the result the appeal is disposed of with a direction to the insurer – Respondent No.2 to deposit a further compensation amount of Rs.4,39,872/- (four lakhs thirty-nine thousand eight hundred seventy two) before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 29th March, 2010, within a period of two months from today; where-after the same shall be disbursed in favour of the claimant – Appellant on such terms and proportion to be decided by the learned tribunal.

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

(B.P. Routray)
Judge