

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.430 of 2019

***M/s. Shriram General Insurance
Company Ltd.***

.... Appellant

Mr. Adam Ali Khan, Advocate

-versus-

Smt. Pramila Naik and Others

.... Respondents

Mr. B.B. Singh, counsel for Respondents 1-3

**CORAM:
SHRI JUSTICE B. P. ROUTRAY**

**ORDER
19.4.2022**

Order No.

09. 1. Heard Mr. A.A. Khan, learned counsel for the insurer – Appellant and Mr. B.B. Singh, learned counsel for claimant – Respondents 1-3.
2. Present appeal by the insurer has been filed challenging the judgment dated 6th February, 2019 of learned 1st MACT, Mayurbhanj passed in MAC No.14 of 2017 wherein compensation to the tune of Rs.57,09,013/- along with interest @ 7% per annum from the date of filing of the claim application, i.e. 6th April, 2017 has been granted on account of death of the deceased in the motor vehicular accident dated 25th March, 2017.
3. Mr. Khan, learned counsel for the insurer submits on behalf of the Appellant that despite the vehicle being not involved in the accident, the same has been implanted subsequently to manage

compensation. This contention of the Appellant is rejected outright in absence of any material brought on record to support the same. Moreover, the charge-sheet has been filed against the driver of the offending vehicle, i.e. the truck bearing registration number OR-09-F-7211 for criminal prosecution. The contents of F.I.R. and other materials collected in course of police investigation admittedly supports the oral evidence of P.W.2, the eye witness.

4. It is next contended that the deceased was aged about 56 years leaving 4 more years only to retire from service. Thus, application of multiplier '9' is defective and the method of split multiplier should have been applied. This submission is without any substance. It is for the reason that, whatever may be the due date of retirement of the deceased, admittedly he would be entitled for getting pension after his retirement amounting 50% of his salary amount. Superannuation from service does not mean that other prospects of income would also die post-retirement. It is incorrect to presume that after retirement from Government service, a person would have no other prospects of income except getting pension. The Supreme Court in the case of *N. Jayasree vs. Chlamandalam MS General Insurance Company Limited*, AIR 2021 SC 5218 have held at paragraph 28 that application of split multiplier method is not a justified approach.

Therefore, I do not find any merit in the submission of learned counsel for the Appellant-insurer to find any fault in the approach of the Tribunal for applying multiplier '9' to determine the loss of dependency.

5. Since no other ground has been raised to challenge the quantum of compensation, the awarded amount of compensation as directed by the Tribunal is confirmed. However, the rate of interest is reduced to 6% from 7%.

6. In the result the appeal is disposed of with a direction to the insurer - Appellant to deposit the awarded compensation amount of Rs.57,09,013/- (fifty seven lakh nine thousand thirteen) before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 6th April, 2017 within a period of two months from today; where-after the same shall be disbursed in favour of the claimant – Respondents on such terms and proportion as contained in the impugned judgment.

7. The statutory deposit made by the appellant before this court along with accrued interest be refunded to the Appellant - insurer on proper application and on production of proof of deposit of the awarded amount before the tribunal.

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

(B.P. Routray)
Judge