

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.193 of 2021

Manager, New India Assurance Co. Appellant
Limited

Mr. S. Satapathy, Advocate

-versus-

Sabita Das and another Respondents

Mr. P.C. Pattanaik, Advocate for Respondent Nos.1 to 5

CORAM:

JUSTICE B. P. ROUTRAY

ORDER
11.01.2022

Order No.

03.

1. This matter is taken up through video conferencing.
2. Heard Mr. S. Satapathy, learned counsel for the Appellant-Insurance Company as well as Mr. P.C. Pattanaik, learned counsel for the Respondent Nos.1 to 5-claimants.
3. It is submitted by Mr. Pattanaik, learned counsel for the Respondents that Respondent No.6 died on 2.7.2021 and all his LR's being already on record, no further substitution is required.
4. The name of Respondent No.6 be deleted from the appeal memo as prayed for by learned counsel for the Respondents.
5. The present appeal has been filed by the Insurance Company against the award dated 09.03.2021 of the learned 1st MACT,

Jagatsinghpur in MAC Case No.19 of 2018 wherein the learned Tribunal has granted compensation of Rs.44,12,966/- along with 7% interest per annum to the claimants from the date of filing of the application i.e. 29.03.2018 on account of death of the deceased in the motor vehicular accident dated 8.1.2018.

6. The case of the claimants is that the deceased while proceeding in a motorcycle on 8.1.2018 from Gahsipura to Keonjhar, the offending vehicle, i.e. Maruti Suzuki Car bearing Registration No.OR-02-BW-6582 dashed against him being driven in rash and negligent manner. The deceased sustained fatal injuries as a result of the accident and was shifted to the CHC, Ghatagaon and then to SCB Medical College & Hospital, Cuttack and again to Relax Hospital, Cuttack. The deceased died on 12.01.2018 while undergoing treatment in Relax Hospital, Cuttack. It is the further case of claimants that the deceased was serving as technician in a private company and getting salary of Rs.29,000/- per month on the date of accident.

7. It is submitted by the insurer-Appellant that the fact of income of Rs.29,000/- by the claimants is not proved on record with sufficient evidence and in absence of any salary certificate to that effect, learned Tribunal based on the IT returns has erroneously arrived at the conclusion in fixing the monthly income of the deceased at the amount of Rs.29,192/-.

8. Having heard learned counsel for the claimants and upon perusal of the impugned judgment, it is seen from paragraph 15

that the basis of determination with regard to income of the deceased is the income tax returns filed under Exts.11 & 12. However, without getting into the dispute further with regard to detail determination on computation of income of the deceased, the amount of compensation is reduced to Rs.37,00,000/- (rupees thirty-seven lakhs) as agreed by Mr. Pattanaik, the counsel for the claimants. It is further agreed by the parties that the rate of interest should be @ 6% per annum.

9. Accordingly, the Insurance Company is directed to deposit the modified amount of Rs.37,00,000/- (rupees thirty-seven lakhs) along with interest @6% per annum from the date of filing of the claim application, i.e., 29.03.2018 before the learned Tribunal within a period of eight weeks from today; where-after the same shall be disbursed in favour of the claimants-Respondent Nos.1 to 5 in such proportion and terms to be directed by the learned Tribunal.

10. On deposit of the award amount before the learned Tribunal and filing of a receipt evidencing the deposit with a refund application before this Court, the statutory deposit made before this Court with accrued interest thereon shall be refunded to the Appellant-Insurance Company.

11. The MACA is disposed of.

12. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a

printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021 and Court's Office Order circulated vide Memo No.514, dated 7th January, 2022.

(B.P. Routray)
Judge



B.K. Barik