

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.762 of 2018

National Insurance Co. Ltd. ***Appellant***
Mr.Gautam Mishra, Senior Advocate

-versus-

Babaji Charan Das ***Respondent***
Mr.A.K.Behera, Advocate for Respondent No.1

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

ORDER
10.02.2022

Order No.

3.

1. Heard Mr.Mishra, learned Senior Advocate for the Appellant and Mr.Behera, learned counsel for Respondent No.1.

2. The present appeal by the Insurer is against the judgment dated 20th January, 2018 passed by the learned Presiding Officer, Third Motor Accident Claims Tribunal, Jajpur in M.A.C. Case No.209 of 2013, wherein compensation to the tune of Rs.6,39,000/- has been granted along with interest @ 6% per annum with effect from the date of filing of the claim application.

3. The case of the claimant is that he sustained multiple fracture of ribs and was under treatment for around seventeen

days in the S.C.B. Medical College & Hospital, Cuttack. He is stated to be a Peon serving in a private aided school.

4. It is submitted by Mr.Mishra, learned Senior Advocate for the Appellant that the learned Tribunal has committed gross illegality in assessing the compensation as if it is a case of death, forgetting the principles enunciated in the case of ***Raj Kumar v. Ajay Kumar, 2011 (1) SCC 343.***

5. In course of hearing, keeping in view the nature of injuries sustained by the claimant, the period of treatment and expenses, pain and suffering, the income of the injured and probable loss of future income, an amount of Rs.2,00,000/-(Two lakhs) along with interest @6% per annum is proposed to the parties. This is agreed by the counsel for the claimant – respondent and left to the discretion of the Court by the counsel for the insurer – Appellant.

6. Accordingly, the amount of compensation is reduced to the extent of Rs.2,00,000/- (two lakhs) with interest @ 6% per annum from the date of filing of the claim application and the insurer – Appellant is directed to pay the same within a period of two months from today which shall be disbursed in favour of the claimant on same terms and conditions as directed by the Tribunal in the impugned judgment.

7. The appeal is accordingly disposed of.

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

and on production of proof of deposit of the award amount before the learned Tribunal.

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

(B.P. Routray)
Judge

CRBiswal

