IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.1171 of 2016

Madhu Chhanda Patra and others .... ***Appellants***
Mr. P.K. Nayak, Advocate

-versus-

Sukanti Mohapatra and others .... ***Respondents***
Mr. A.A. Khan, Advocate for Respondent No.2

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
16.11.2022

Order No.
08.

1. Heard Mr. P.K. Nayak, learned counsel for the Appellants-claimants and Mr. A.A. Khan, learned counsel for the Respondent No.2-Insurance Company.

2. Mr. Nayak submits that Respondent No.3 died in the meantime and his name may be deleted since all other LRs are already on record.

3. Present appeal by the claimants is directed against the judgment dated 08.09.2016 of learned 3rd M.A.C.T., Rourkela in M.A.C. Case No.255 of 2007, wherein compensation to the tune of Rs.21,45,228/- has been granted along with interest @6% per annum to the claimants from the date of filing of the claim application on account of death of the deceased in the motor vehicular accident dated 16.06.2007.

4. It is submitted on behalf of the claimants-Appellants that the learned Tribunal has committed error by not adding future

prospects to the income of the deceased and secondly, it deducted 1/3rd instead of 1/4th from the income towards personal expenses.

5. Having heard Mr. Khan, learned counsel for the Respondent No.2-insurer and perusal of the impugned judgment, it reveals that the Tribunal has determined the amount of compensation without following the established procedure. Accordingly, the same is set aside and the amount is recomputed as follows.

6. Before going for computation, it needs to be stated here that the number of dependants were four and therefore in terms of the principles decided in the case of ***National Insurance Company Limited vs. Pranay Sethi and others, (2017) 16 SCC 680***, 1/4th should be deducted towards personal expenses. Secondly, the deceased being in permanent employment under the Steel Authority of India Ltd. at Rourkela Steel Plant and aged about 39 years 8 months 24 days (date of birth is 22.9.1967 as per the service record), future prospects to the extent of 50% is liable to be added.

7. The Insurance Company does not challenge the amount of income of the deceased and does not dispute his employment in Rourkela Steel Plant. Thus as per the pay slips and Form No.16 brought on record under Exts.11, 12 and 13, the annual income of the deceased to the tune of Rs.2,24,486/- as determined by learned Tribunal is confirmed. Deducting professional tax of Rs.2500/- and income tax of Rs.6734/-, the net income comes to Rs.2,15,252/-. Deducting 1/4th there-from towards personal expenses, the balance amount remains Rs.1,61,439/-. Applying

multiplier '15', the total loss of dependency is computed at Rs.24,21.585/-. Adding Rs.1,20,000/- towards consortium to the wife and two children and Rs.30,000/- towards general damages, the total compensation amount is determined at Rs.25,71,585/-, payable with interest @6% per annum.

8. At this stage, it is submitted that the compensation amount as directed by the learned Tribunal has already been satisfied and disbursed in favour of the claimants.

9. Thus the appeal is disposed of with a direction to the Respondent No.2-Insurance Company to deposit the balance amount of Rs.4,26,357/- (rupees four lakhs twenty-six thousand three hundred fifty-seven) before the Tribunal along with interest @6% per annum from the date of filing of the claim application within a period of two months from today; where-after the same shall be disbursed in favour of the claimants – appellants on such terms and proportion to be fixed by the Tribunal.

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

(B.P. Routray)
Judge

B.K. Barik