

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA NO. 505 OF 2020

From the Judgment/Order dated 12.09.2019 passed by the learned 3rd MACT, Talcher in MAC Case No.119/2017.

**The Divisional Manager,
National Insurance Co. Ltd.**

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Appellant

-:: VERSUS ::-

Hemanta Kumar Pradhan & Ors.

Respondents

Appeared in this case by Video Conferencing Mode / Hybrid Mode.

For Appellant

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Mr. B.N. Udgata, Advocate
(for Appellant-Company)

For Respondent

Mr. P.K. Nayak, Advocate
(for Claimants-Respondents)

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PRESENT :

THE HON'BLE MR. JUSTICE B.P.SATAPATHY

Date of Hearing- 12.07.2022 :: Date of Order- 20.07.2022

B.P.Satapathy, J. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. B.N. Udgata, learned counsel appearing for the Appellant-Company and Mr. P.K. Nayak, learned counsel appearing for the Claimants-Respondents.

3. This appeal has been filed by the Appellant-Company challenging the Judgment dtd.12.09.2019 passed by the learned 3rd MACT, Talcher in MAC Case No.119/2017.

4. Mr. Udgata, learned counsel appearing for the Appellant-Company submitted that learned Tribunal without proper appreciation of the materials available on record and the grounds raised by the Appellant-Company illegally assessed the compensation at Rs.29,42,800/- (Rs. Twenty nine lakh forty two thousand eight hundred) with interest @ 6% per annum payable from the date of application till its realization.

5. Mr. Udgata further submitted that even though no document was produced by the Claimant in support of the income of the deceased, but learned Tribunal illegally held the monthly income of the deceased at Rs.26,600/- (Rs. Twenty six thousand six hundred). It is also submitted that the document in support of the income of the deceased though was produced by the employee, but the said employee was never examined as a witness. Mr. Udgata accordingly submitted that in view of such lacunae on the part of the learned Tribunal the award passed by needs interference of this Court.

6. Mr. Nayak, learned counsel appearing for the Claimants-Respondents on the other hand submitted that learned Tribunal has

rightly assessed the compensation by taking into account the materials available on record and the documents exhibited towards the income of the deceased. It is accordingly submitted that no interference is called for by this Court.

7. Heard learned counsel appearing for the Parties. Perused the materials available on record. This Court after going through the same held that the Claimants-Respondents will be entitled to get compensation amount of Rs.28,00,000/- (Rs. Twenty eight lakh) by keeping rate of interest allowed by the learned Tribunal as intact, Mr. Nayak, learned counsel appearing for the Claimants-Respondents supported the said view of this Court. Mr. Udgata, learned counsel appearing for the Appellant-Company on the other hand left the same to the discretion of this Court.

8. In view of such stand taken by the learned counsel appearing for the Parties, this Court while interfering with the amount, held that the Claimants-Respondents will be entitled to get compensation amount of Rs.28,00,000/- (Rs. Twenty eight lakh) with interest so awarded by the learned Tribunal in its Judgment dtd.12.09.2019. Accordingly, while holding so, this Court directs the Appellant-Company to deposit the aforesaid compensation amount along with interest before the learned Tribunal within a period of eight (8) weeks from the date of receipt of this order.

9. It is further observed that if the Appellant-Company will fail to deposit the amount so directed by this Court within the time stipulated hereinabove, the compensation amount of Rs.28,00,000/- (Rs. Twenty eight lakh) will carry interest @ 7%

per annum for the period starting from the expiry of the period of eight (8) weeks till its payment.

10. It is however observed that on deposit of the compensation amount along with interest, learned Tribunal shall disburse the same in favour of the Claimants-Respondents in terms of its order dtd.12.09.2019. It is further observed that only after deposit of the entire amount along with interest before the learned Tribunal as directed hereinabove, the Appellant-Company shall be permitted to take refund of the statutory deposit along with accrued interest from the Registry of this Court on proper identification.

11. This appeal is accordingly disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
The 20th July, 2022/Sneha