

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.716 of 2006

***The Branch Manager, The New India
Insurance Company Ltd.***

.... ***Appellant***

Mr. S.K. Swain, Advocate

-versus-

Rajesh Kumar Agarwal and Others

.... ***Respondents***

Mrs. P. Mishra, counsel for Respondent No.3

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
15.11.2022

Order No.

- 19.
1. The matter is taken up through hybrid mode.
 2. Heard Mr. S. K. Swain, learned counsel for the Appellant – insurer and Mrs. P. Mishra, learned counsel for Respondent No.3 – the other insurance company, i.e. Oriental Insurance Co. Ltd. None appears on call for claimant – Respondent No.4.
 3. Present appeal by the insurer, i.e. New India Insurance Company Ltd. is against the impugned judgment dated 13th December, 2005 of the learned 1st MACT, Sundargarh passed in MAC Case No.62 of 2004, wherein compensation to the tune of Rs.2,00,000/- along with interest @ 6% per annum from the date of filing of the claim application has been granted on account of injuries sustained by the injured – claimant in the motor vehicular accident dated 31st May, 2004. The tribunal has fixed 50% liability on the present appellant.

4. Mr. S.K. Swain, learned counsel for the insurer – Appellant contends that the injured – claimant being a government servant must have reimbursed his treatment expenses and therefore, no amount should be paid to him on that count.

5. It is seen that no evidence has been adduced from the side of either of the insurance companies. There is no material produced on record to justify the contention of Mr. Sahoo that the injured has reimbursed his treatment expenses from the employer. Therefore, such contention raised by the insurer-Appellant without any supporting material is rejected outright being found without merit.

6. No serious challenge is put-forth with regard to fixation of quantum of compensation and moreover 50% liability fixed on Respondent No.3 has already been satisfied in the meantime. Otherwise also the amount of compensation granted by the tribunal is appearing reasonable and justified.

7. In the result the appeal is dismissed and the insurer – Appellant is directed to deposit the entire compensation amount before the tribunal along with interest fall due to his share as per the direction of the tribunal, within a period of two months from today; where-after the same shall be disbursed in favour of the claimant – Respondent No.4 on such terms and proportion to be decided by the learned tribunal.

8. At this stage it is submitted that the entire compensation amount along with interest due to the share of the present appellant – insurance company has already been deposited before this court on

13th February, 2008 pursuant to the order of this court dated 21st January, 2008.

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

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

(*B.P. Routray*)
Judge

M.K.Panda

