

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.198 of 2021

M/s. IFFCO Tokio General Insurance Company Ltd. Appellant

-versus-

Jyotshna Rout & Ors. Respondents

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
06.07.2022**

Order No

03.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. Gautam Mishra, learned Senior Counsel appearing for the Appellant-Company and Mr. P.K. Behera, learned counsel appearing on behalf of Claimants-Respondent Nos. 1 to 4.

3. This appeal has been filed by the Appellant-Company challenging the award dtd.18.03.2021 passed in MAC Case No.108 of 2017 by the learned 1st MACT, Jajpur.

4. Ms. Mishra, learned Senior Counsel for the Appellant-Company submitted that learned Tribunal without considering the grounds raised by the Appellant-Company held the Claimants-Respondents entitled to get compensation amount of Rs.16,31,000/- (Rs. Sixteen lakh thirty one thousand) along with interest @ 6% per

annum payable from the date of application till its payment. It is further submitted that though factum of contributory negligence was specifically raised by the Appellant before the learned Tribunal, but learned Tribunal did not consider the same in its proper perspective. It is also submitted that learned Tribunal assessed compensation at the higher side by awarding a sum of Rs.1,10,000/- (Rs. One lakh ten thousand) towards non-conventional heads. Accordingly, Mr. Mishra prayed for interference of this Court in the impugned Judgment.

5. Mr. Behera, learned counsel appearing for the Claimants-Respondents though supported the impugned Judgment, but failed to counter the stand taken by the learned counsel appearing for the Appellant-Company regarding contributory negligence and award of higher compensation towards non-conventional heads.

6. Heard learned counsel for the Parties. Perused the materials available on record. After going through the same, this Court when came to a finding that the Claimants-Respondents will be entitled to get compensation amount of Rs.13,50,000/- (Rs. Thirteen lakhs fifty thousand)) by keeping the rate of interest so allowed by learned Tribunal intact, Mr. Behera, learned counsel appearing for the Claimants-Respondents supported the said view of this Court. Mr. Mishra, learned counsel appearing for the Appellant-Company left the same to the discretion of this Court.

7. In view of such stand taken by the learned counsel appearing for the Parties, this Court while interfering with the impugned Judgment held that the Claimants-Respondents entitled to get compensation amount of Rs.13,50,000/- (Rs. Thirteen lakh fifty

thousand) by keeping rate of interest so allowed by the learned Tribunal in its Judgment dtd.18.03.2021. This Court accordingly directs the Appellant-Company to deposit the aforesaid compensation amount of Rs.13,50,000/- (Rs. Thirteen lakh fifty thousand) along with interest so awarded by the learned Tribunal before the said Tribunal within a period of eight (8) weeks from the date of receipt of this order.

8. It is further observed that on such deposit of the compensation amount along with interest, learned Tribunal shall disburse the same in favour of the Claimants-Respondents proportionately in terms of its order dtd.18.03.201. It is however observed that if the Appellant-Company will fail to deposit the compensation amount so assessed by this Court within the time indicated hereinabove, the compensation amount will carry interest @ 7% per annum for the period starting from the expiry of the period of 8(eight) weeks till its payment.

9. It is further observed that only after deposit of 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 thereon from the Registry of this Court.

10. The appeal is disposed of in terms of the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha