IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.296 of 2022

M/s.National Insurance Company Limited	....	***Appellant***

Mr. G.P. Dutta, Advocate

-versus-

Manas Kumar Dhal and another	....	***Respondents***

Mr. D. Pattanaik, Advocate for Respondent No.1

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
15.11.2022

Order No.

I.A. No.860 of 2022

03. 1. Heard Mr. G.P. Dutta, learned counsel for the Appellant and Mr. D. Pattanaik, learned counsel for the Respondent No.1.

2. In view of the SR, the I.A. is disposed of as no delay is there.

MACA No.296 of 2022

3. Heard Mr. G.P. Dutta, learned counsel for the Appellant-Insurance Company as well as Mr. D. Pattanaik, learned counsel for the Respondent No.1-claimant.

4. Present appeal by the insurer is directed against the judgment dated 06.12.2021 of learned 4th M.A.C.T., Cuttack in M.A.C. Case No.884 of 2014 wherein compensation to the tune of Rs.10,86,114/- has been granted along with simple interest @6% per annum to the claimant from the date of filing of the claim

application, i.e.16.12.2014 on account of injury sustained by him in the motor vehicular accident dated 30.03.2014.

5. Mr. G.P. Dutta, learned counsel for the Appellant submits that the learned Tribunal has assessed loss of earning capacity on higher side and the fact remains that the injured-claimant has earned more after the accident. In support of his submission, Mr. Dutta relies on the income tax returns filed by the claimants for the Assessment Years 2015-16 and 2016-17 by way of additional evidence, as prayed in I.A. No.879 of 2022.

6. Perusal of copies of the ITRs for AY 2015-2016 and 2016-2017, as produced by Mr. Dutta in course of hearing and copies served on Mr. D. Pattanaik, it reveals that for the Assessment Year 2015-2016, the gross total income of the injured-claimant was Rs.3,86,579/- and for the AY 2016-17, it was Rs.4,18,155/-. As per the copies of the ITRs filed under Ext.7 series, i.e. for the AY 2011-12 to 2014-15, as produced in course of hearing, it reveal that the gross total income for AY 2011-12 was Rs.2,63,570/-, for AY 2012-13 was Rs.2,48,057/-, for AY 2013-14 was Rs.2,97,190/- and for AY 2014-15 was Rs.2,40,803/-. Therefore, it becomes clear that the income of the injured increased subsequent to the date of accident. Considering such factors and the date of Disability Certificate under Ext.6 granted in favour of the claimant-injured, the loss of future income, as counted by the learned Tribunal, is reduced to 50% , i.e. fixed at Rs.4,37,057/-. Accordingly, the total compensation amount is modified to Rs.6,49,057/-, rounded to Rs.6,50,000/-.

7. In the result, the appeal is disposed of with a direction to the Appellant – Insurance Company to deposit the modified compensation amount of Rs.6,50,000/- (rupees six lakhs fifty thousand) before the Tribunal along with interest @6% per annum from the date of filing of the claim application, i.e. 16.12.2014 within a period of two months from today; where-after the same shall be disbursed in favour of the claimant on such terms and proportion to be fixed by the Tribunal. However, the penal interest @12% per annum as granted by the learned Tribunal is waived.

8. On deposit of the award amount before the learned Tribunal and filing of a receipt evidencing the deposit with a refund application before this Court, the statutory deposit made before this Court with accrued interest thereon shall be refunded to the Appellant-Insurance Company.

9. Copies of the documents filed in course of hearing are kept on record.

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

(B.P. Routray)
Judge

B.K. Barik