

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.220 of 2021 & MACA No.221 of 2021

In MACA No.220 of 2021

National Insurance Company Limited *Appellant*
Mr. S.R. Pattnaik, Advocate
-versus-
Ranjit Sahoo and another *Respondents*
Mr. K. Panigrahi, Advocate for Respondent No.1

In MACA No.221 of 2021

National Insurance Company Ltd. *Appellant*
Mr. S.R. Pattnaik, Advocate
-versus-
Sasmita Sahoo and others *Respondents*
Mr. K. Panigrahi, Advocate for Respondent Nos.1 to 3

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
29.03.2022

Order No.

MACA Nos.220 & 221 of 2021

10. 1. Heard Mr. S.R. Pattnaik, learned counsel for the Insurance Company and Mr. K. Panigrahi, learned counsel for the claimants.
2. Both the appeals being arise out of the same judgment dated 04.02.2020 of the learned 1st MACT, Cuttack are heard together and disposed of by this common order.
3. MACA No.220 of 2021 is corresponding to MAC Case No.487 of 2015 and MACA No.221 of 2021 is in respect of MAC Case No.486 of 2015.

4. MAC Case No.487 of 2015 is concerning injury of the claimant-Ranjit Sahoo and MAC Case No.486 of 2015 is in respect of the death of the deceased, namely, Bidyadhar Sahoo. The learned Tribunal has granted compensation of Rs.9,26,800/- in MAC Case No.486 of 2015 and Rs.2,00,000/- in MAC Case No.487 of 2015, along with interest @6% per annum in favour of respective claimants from the date of filing of the claim applications, i.e.,03.08.2015.

5. The claimants in both the cases have also approached for enhancement of their respective compensation amount by filing cross-objections in both the appeals preferred by the insurer.

6. Mr. S.R. Pattnaik, learned counsel for the Appellant-Insurance Company submits that in the death case, the income of the deceased has been assessed on higher side and in the injury case, grant of such higher amount in absence of any document with regard to expenses and income is inappropriate.

7. Looking to the case of the claimants in death case, it reveals that the deceased was a driver by profession and earning Rs.9,000/- per month as per their claim. Admittedly the claimants, except the driving licence of the deceased, have not adduced any other evidence to prove the income of the deceased at Rs.9000/- as a driver. Thus the learned Tribunal disbelieving the same has accepted his income at Rs.4500/- at the wage of Rs.150/- per day as unskilled labourer. This is challenged by the claimants on the ground that the prescribed rate of daily wages in the year 2015 was Rs.200/- per day for unskilled labourer in terms of SR No.150, dated 30.4.2015 w.e.f. 1st May, 2015, and

the date of accident being 13th May, 2015, the learned Tribunal has committed error in calculating Rs.150/- instead of Rs.200/- per day. The approach of the Tribunal to calculate the income of the deceased on daily wage basis for unskilled labour is though found without any fault, but the rate of wage needs to be corrected to Rs.200/- per day and accordingly, the income is taken at Rs.6000/- per month. Consequently, the compensation amount is enhanced to Rs.12,12,400/- including grant of future prospects and other conventional heads.

8. Regarding the other injury case, admittedly the Petitioner has not adduced any document in proof of his period of treatment or income. Therefore, keeping in view the nature of injuries, which is fracture of right femur and head injuries, the approach of the learned Tribunal in granting compensation of Rs.2,00,000/- seems appropriate. As such, no merit is seen to disturb the same.

9. In the result, MACA No.221 of 2021 is dismissed and the cross objection is allowed and the compensation amount is enhanced to Rs.12,12,400/-.

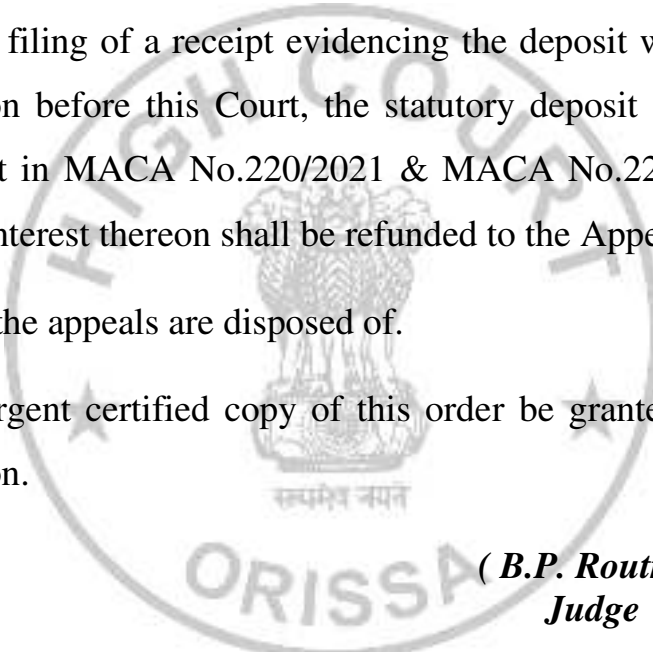
10. The Appellant-Insurance Company is directed to deposit the enhanced amount of Rs.12,12,400/- before the Tribunal along with interest @6% per annum from the date of filing of the claim application, i.e. 03.08.2015 within a period of ten weeks from today; where-after the same shall be disbursed in favour of the claimants on such terms and proportion to be decided by the Tribunal. It goes without saying that the penal interest @12% is waived.

11. MACA No.220/2021 including the cross objection are dismissed. The Appellant-Insurance Company is directed to deposit the amount of Rs.2,00,000/- before the learned Tribunal along with interest @6% per annum from the date of filing of the claim application, i.e. 03.08.2015 within a period of ten weeks from today; where-after the same shall be disbursed in favour of the claimant on the same terms and proportion as per the direction of the learned Tribunal.

12. On deposit of respective award amount before the Tribunal and upon filing of a receipt evidencing the deposit with a refund application before this Court, the statutory deposit made before this Court in MACA No.220/2021 & MACA No.221/2021 with accrued interest thereon shall be refunded to the Appellant.

13. Both the appeals are disposed of.

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

The seal of the Orissa High Court is a circular emblem. It features the Ashoka Lion Capital in the center, with the motto 'सत्यमेव जयते' (Satyameva Jayate) in Devanagari script below it. The word 'ORISSA' is written in large, bold, capital letters across the bottom of the seal. The words 'HIGH COURT' are written in a semi-circle at the top.
(**B.P. Routray**)
Judge