

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.305 of 2022 & MACA No.276 of 2022

In MACA No.305 of 2022

The Sr. Divisional Manager, Oriental Insurance Company Ltd. ***Appellant***

Mr. G.P. Dutta, Advocate

-versus-

Harshita Pradhan and another ***Respondents***

Mr. P.K. Mishra, Advocate for Respondent No.1

In MACA No.276 of 2022

Harshita Pradhan ***Appellant***

Mr. P.K. Mishra, Advocate

-versus-

Prop. Monalisa Engicons and another ***Respondents***

Mr. G.P. Dutta, Advocate for Respondent No.2

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

14.12.2022

Order No.

MACA No.305 of 2022 and MACA No.276 of 2022

- 04.
1. Heard Mr. G.P. Dutta, learned counsel for the Insurance Company and Mr. P.K. Mishra, learned counsel for the claimant.
 2. Both the appeals being arise out of the same judgment dated 23.03.2022 of the learned 2nd MACT (Northern Division), Sambalpur in M.A.C. Case No.54 of 2017 (Sambalpur), wherein compensation to the tune of Rs.19,92,848/- has been granted along with simple interest @6% per annum to the claimant from the date of filing of the claim application, i.e. 20.06.2017 on

account of injury sustained by her in a motor vehicular accident dated 31.01.2017, are heard together and disposed of by this common order.

3. MACA No.305 of 2022 has been filed by the insurer challenging the award on quantification of the compensation amount. Similarly, the injured-claimant also prays for enhancement of the quantum of compensation in her appeal, i.e. MACA No.276 of 2022.

4. Mr. G.P. Dutta, learned counsel contends for the insurer that computation of loss of earning to the tune of Rs.11,30,202/- is excessive and needs reduction.

5. On the other hand, Mr. P.K. Mishra, learned counsel submits for the injured-claimant that no future prospects on the income of the injured have been added and further, lesser amount towards expectation of life has been granted. He further submits that no amount towards loss of beauty and marriage prospects has been granted.

6. It is seen that the learned Tribunal has computed the compensation as follows:

Sl. No.	NATURE OF COMPENSATION	ENTITLED PARTY	AMOUNT IN Rs.
1	Cost of treatment etc.	Petitioner	6,62,646
2	Loss of earning due to accident	-do-	11,30,202
3	Pain, Suffering & trauma	-do-	1,00,000
4	Loss of amenities and expectation of life	-do-	1,00,000
	Total	Petitioner	19,92,848

7. The injured-claimant is a woman aged about 21 years old on the date of accident and due to injuries in the accident her right

leg has been amputated below the knee. She was a graduate having computer training. The extent of permanent disability is 65%.

Based on these undisputed facts, the learned Tribunal assessed loss of functional disability to the same extent of 65% and taking prevalent minimum wage rate for un-skilled labourer on the date of accident, has assessed the income and consequent loss of income. It needs to be observed here that the learned Tribunal has committed error in determining the income based on minimum wage rate. It is for the reason that the injured is a qualified woman and thus her income should be assessed on guess work considering the circumstances like her qualification, place of residence etc.

8. Admittedly, the learned Tribunal did not grant any future prospects to the assessed income of the injured nor did grant any amount towards loss of beauty, loss of marriage prospects, future attendant's cost, future medical expenses, though apparently the decision of the Supreme Court in the case of ***Raj Kumar vs. Ajay Kumar and another, (2011) 1 SCC 343*** has been discussed by learned Tribunal.

9. Considering all such factors stated above, without delving into a detail computation, this Court proposes modified amount of Rs.30,00,000/- along with 6% interest to the parties in course of hearing. Mr. P.K. Mishra, learned counsel for the claimant agrees to the same and Mr. G.P. Dutta, learned counsel for the Insurance Company leaves it to the discretion of the Court. The compensation amount is accordingly fixed to that extent.

10. In the result, both the appeals are disposed of with a direction to the insurer, i.e. Oriental Insurance Company Limited (Appellant in MACA No.305 of 2022) to deposit the modified compensation amount of Rs.30,00,000/- (rupees thirty lakhs) along with interest @6% per annum from the date of filing of the claim application, i.e. 20.06.2017 before the Tribunal 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 decided by the learned Tribunal.

11. On deposit of the award amount by the insurer before the Tribunal and filing of a receipt evidencing the deposit with refund applications before this Court, the statutory deposit made in MACA No.305 of 2022 before this Court with accrued interest thereon shall be refunded to the insurer.

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

(B.P. Routray)
Judge