

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.503 of 2019

Sharsransu Jena

....

Appellant

Mr. Durga Charan Dey, Advocate

-versus-

Susama Sahoo and Another

....

Respondents

Mr. B.N. Udgata, counsel for Respondent No.2

CORAM:

SHRI JUSTICE B. P. ROUTRAY

ORDER
21.02.2022

Order No.

- 12.
1. Heard Mr. D.C. Dey, learned counsel for the claimant – Appellant and Mr. B.N. Udgata, learned counsel for the insurer-Respondent No.2.
 2. Present appeal by the claimant is against impugned judgment dated 28th May, 2019 of the learned 2nd MACT, Cuttack in Misc. Case No.549 of 2014 wherein compensation to the tune of Rs.6,56,964/- along with interest @ 7% per annum from the date of filing of the claim application, i.e. 8th August, 2014 has been granted on account of injuries sustained by the claimant in the motor vehicular accident dated 9th July, 2014.
 3. It is submitted on behalf of the Appellant that the learned Tribunal has failed to appreciate the extent of disability and consequential future loss of income. It is further submitted that though Appellant was a private tutor and earning Rs.10,000/- per month, but

the learned Tribunal has wrongly taken the same at Rs.3000/- to derive the loss of income during the period of treatment. Enhancement is prayed for on these two counts.

4. On the other hand, Mr. Udgata supports the impugned judgment.

5. Upon hearing both parties and perusal of the impugned judgment, it reveals that the learned Tribunal discarded the contention of the claimant with regards to his temporary disability on the ground that the disability certificate as produced on behalf of the claimant is not satisfactorily proved on record. It reveals that the extent of disability mentioned under Ext.8 and 8/a is to the extent of 20% only, which are documents not granted by authorised person. As such, no fault is seen in the approach of learned Tribunal to disbelieve such purported disability certificate.

6. So far the income aspect of the claimant is concerned, he has claimed that he was earning Rs.10,000/- per month being employed as a tutor in a private institution. The document with regard to his monthly income submitted by the claimant has been disbelieved by the learned tribunal holding the same as a private document and has not been sufficiently proved on record. The learned Tribunal has assessed the income of the claimant at Rs.3000/- per month. However, considering the nature of avocation of the appellant, the assessment of income at Rs.3000/- appears to be minimal and the same is enhanced to Rs.5000/- since it is the specific case of the claimant that he was a private tutor and was engaged in a private institution for teaching the students.

7. Accordingly the amount calculated by the learned Tribunal towards loss of income during the period of his treatment and laid up period, i.e. 202 days as calculated by the learned Tribunal, the loss of income is enhanced to Rs.33,600/-. Accordingly the amount of compensation is required to be enhanced by Rs.13,400/-.

8. It is submitted by both parties that the compensation amount in terms of direction of the learned Tribunal has not been paid till date.

9. Accordingly, the insurer – Respondent No.2 is directed to deposit the enhanced compensation to the tune of Rs.6,70,364/- (six lakh seventy thousand three hundred sixty-four) before the learned tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 8th August, 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 as contained in the impugned judgement of the Tribunal.

10. The appeal is disposed of.

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

(B.P. Routray)
Judge