

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.309 of 2022

MACA Nos.309 & 161 of 2022

***Divisional Manager, National
Insurance Company Ltd.***

(In MACA No.309/2022)

Basanti Pani

(In MACA No.161/2020)2

.... Appellants

Mr. Subrat Satpathy, Advocate (in MACA No.309/2022)

Mr. P.K. Mishra, Advocate (in MACA No.161/2022)

-versus-

Basanti Pani and Another

(In MACA No.309/2022)

Ganesh Pr. Pani and Another

(In MACA No.161/2022)

.... Respondents

Mr. P.K. Mishra, counsel for Respondent No.1
(in MACA No.309/2022)

Mr. S. Satpathy, counsel for Respondent No.2
(in MACA No.161/2022)

CORAM:

SHRI JUSTICE B. P. ROUTRAY

ORDER

9.9.2022

Order No.

- 04.
1. The matters are taken up through hybrid mode.
 2. Heard Mr. Subrat Satpathy, learned counsel for the insurer and Mr. P.K. Mishra, learned counsel for Claimant.
 3. The Appellant in MACA No.161 of 2022 being the claimant is exempted from payment of court fee for the time being.

4. Both the appeals being arise out of same judgment, are heard together and disposed of by this common order.

5. Both the appeals are against the same impugned judgment dated 8th February, 2022 of learned 1st MACT, Jagatsinghpur passed in MAC Case No.62 of 2018 wherein compensation to the tune of Rs.9,84,634/- along with interest @ 7% per annum from the date of filing of the claim application, i.e. 26th June, 2018 has been granted on account of death of the deceased Rajesh Kumar Pani in the motor vehicular accident dated 21st February, 2018.

6. MACA No.309 of 2022 has been preferred by the insurer challenging the award whereas MACA No.161 of 2022 has been filed by the claimants praying for enhancement of the compensation amount.

7. Mr. Satpathy, learned counsel submits on behalf of the insurer that the offending vehicle i.e. motor cycle bearing registration number OD 22 9732 was not involved in the accident but has been subsequently implanted to manage compensation. In support of such submission it is submitted that the F.I.R. was lodged after three months of the accident.

8. Mr. Mishra, learned counsel for the claimant replies that as the F.I.R. was not registered by police and no action taken by them, the informant was compelled to approach the magistrate under Section 156(3) of the Cr.P.C. and upon his interference only, Agarpada P.S. Case No.59 of 2018 was registered for commission of offence under Section 279/304-A of I.P.C. So the delay in registration of the F.I.R. cannot stand as an obstacle against the claimant of the claimants.

9. Upon perusal of record it reveals that such contention of Mr. Mishra about registration of the police case upon direction of the learned Magistrate remains undisputed. As such, it is not a case where the F.I.R. was lodged after three months but is a case of delayed registration of F.I.R. only. Therefore, no lacunae or laches can be attributed on the part of the claimant for delayed registration of the case by police and hence no merit is seen in the contention of the appellant to disbelieve the case of the claimant regarding accident and death of the deceased in the accident involving the offending motor cycle. The other aspects regarding validity of driving licence or policy coverage are never questioned.

10. Next coming to the challenge with regard to quantum of compensation, upon considering such grounds as raised by the appellant as well as by the claimant, a reduced compensation of Rs.8,00,000/- along with 6% interest is proposed to the parties. This is agreed by Mr. Mishra, learned counsel for the claimants and Mr. Satpathy, learned counsel for the insurer leaves it to the discretion of the Court. As such the amount is fixed to the above extent.

11. In the result, both the appeals are disposed of with a direction to the insurer, i.e. National Insurance Company Ltd. to deposit the modified compensation of Rs.8,00,000/- (eight lakhs) before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 26th June, 2018 within a period of two months from today; where-after the same shall be disbursed in favour of the claimants on such terms and proportion to be decided by the learned Tribunal.

12. However, the penal interest @ 9% is waived.

13. The statutory deposit made by the insurer – Appellant in MACA No.309 of 2022 before this court along with accrued interest be refunded on proper application and on production of proof of deposit of the awarded amount before the tribunal.

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

(B.P. Routray)
Judge

M.K.Panda

