

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA NO.469 OF 2016

From the Judgment / Order dated 22.01.2016 passed by the learned 3rd M.A.C.T, Balasore in M.A.C Case Nos.121/140 of 2012/2010.

M/s. Reliance G.I. Co. Ltd. ::: Appellant.

-:: VERSUS ::-

Santoshini Mishra & Others ::: Respondents.

Appeared in this case by Video Conferencing Mode /

Hybrid Mode.

For Appellant :::: Mr. B.P. Tripathy,
Advocate

For Respondents :::: Mr. S. Satpathy, Advocate
(for Respondent No.9)
Mr. P.K. Padhi, Advocate
(for Respondent Nos.1 to 6)
Mr. R. Agrawal, Advocate
(for Respondent No.7)
Mr. B.P. Tripathy, Advocate
(for Respondent No.8)

MACA NO.640 OF 2016

D.M., N.I.A. Co. Ltd. ::: Appellant.

-:: VERSUS ::-

Santoshini Mishra & Others ::: Respondents.

Appeared in this case by Video Conferencing Mode /

Hybrid Mode.

For Appellant :::: Mr. A.A. Khan, Advocate

For Respondents :::: Mr. S. Satpathy, Advocate
(for Respondent No.9)
Mr. B.P. Tripathy, Advocate
(for Respondent No.8)
Mr. P.K. Padhi, Advocate
(for Respondent Nos.3 to 6)
Mr. R. Agrawal, Advocate
(for Respondent No.7)

.....
PRESENT :

THE HON'BLE MR. JUSTICE B.P.SATAPATHY

Date of Hearing- 20.04.2022:: Date of Order-. 26.04.2022

B.P.Satapathy, J. This matter is taken up through Hybrid Mode.

2. Since both the appeals arise out of the common judgment passed in MAC Case No.121/140 of 2012/2010 by the learned 3rd MACT, Balasore vide judgment dtd.22.01.2016, both the appeals were taken up together for the purpose of adjudication and disposal.

3. Heard learned counsel appearing for the Parties in both the appeals.

4. Mr. A.A. Khan, learned counsel appearing for the Appellant in MACA No.640 of 2016 seeks to assail the judgment in question on various grounds.

5. It is submitted by Mr. Khan, learned counsel for the Appellant that learned Tribunal without proper appreciation of the grounds raised by the Appellant and without proper appreciation of the materials available on record held the income of the deceased on the higher side and also allowed interest on the compensation amount @ 7.5% per annum, which was not prevailing rate of interest at the relevant point of time.

6. It is also submitted that learned Tribunal without proper appreciation of the stand taken by the Appellant held the Appellant liable to pay the compensation with interest to the extent of 50% by saddling the rest 50% on Respondent No.9.

7. Mr. Satapathy, learned counsel appearing for the Respondent No.9/Appellant in MACA No. 469 of 2016 while making similar nature of argument also submitted that in view of the stand taken by the Respondent No.9, the liability should have been saddled on the Appellant-Company in MACA No.640 of 2016. Accordingly, both the learned counsel appearing on behalf of Appellants in MACA No. 640 of 2016 and MACA No.469 of 2016 prayed for interference of this Court in the impugned judgment.

8. Mr. Padhi, learned counsel appearing for the claimants-Respondents on the other hand while supporting the impugned judgment submitted that learned Tribunal after going through the materials available on record and the documents exhibited by them has rightly assessed the compensation at Rs.50,59,904/- (Rs. Fifty lakhs fifty nine thousand nine hundred four) with interest @ 7.5% per annum payable from the date of application. With regard to saddling the liability on both

the Appellant-Company and Respondent No.9-Company @ 50% each, Mr. Padhi left the same to be decided by this Court.

9. Heard learned counsel appearing for the respective Parties, in both the appeals at length. Perused the materials available on record & after going through the same, this Court finds that learned Tribunal has held the annual income of the deceased not in terms of the finding arrived at by the Tribunal. Similarly, learned Tribunal has also allowed interest at the higher side as against the prevailing rate of interest applicable to such nature of claim.

10. Taking everything into consideration, this Court when came to a conclusion that the Claimants-Respondents are entitled to get compensation of Rs.48,00,000/- (Rs. Forty eight lakhs) along with interest @ 6% per annum payable from the date of application till its payment, Mr. Padhi, learned counsel for the Claimants-Respondents supported the said view of this Court. Mr. Khan, learned counsel appearing for the Appellant in MACA No.640 of 2016 and Mr. Satapathy, learned counsel appearing for the other Company in MACA No.469 of 2016 left the aforesaid view to the discretion of this Court. In view of such stand taken by the counsel appearing for the Parties herein, this Court disposed of both the appeals with a direction on the Appellant-Company in both the appeals to pay the compensation amount of Rs. 48,00,000/- (Rupees forty eight lakhs) along with interest @ 6% per annum payable from the date of application i.e. 04.05.2010 till its payment within a period of 8(eight) weeks from the date of receipt of this order. This Court is not inclined to interfere with the liability fixed @

50% each on both the Appellants. Accordingly, both the Appellants are directed to pay the compensation amount along with interest so assessed by this Court with equal liability to the extent of 50% each.

11. It is further directed that on deposit of the compensation amount along with interest so assessed by this Court hereinabove before the learned Tribunal, learned Tribunal shall disburse the award in favour of the Claimants proportionately in terms of the order passed earlier on 22.01.2016.

12. It is also observed that if the Appellants in both the Appeals failed to deposit the compensation amount along with interest so fixed by this Court within the time indicated hereinabove, they would be liable to pay interest @ 7% per annum on the compensation amount of Rs.48,00,000/- (Rs. forty eight lakhs) for the period i.e. expiry of the period of eight weeks till its payment.

13. It is also observed that only after deposit of their respective share of 50% before the learned Tribunal within the time indicated hereinabove, the Appellants in both the appeals shall be permitted to take refund of the security deposit along with accrued interest from the Registry of this Court on proper identification.

14. With the aforesaid direction and observation, both the appeals are disposed of.

15. Xerox copy of the order be placed with the connected case record.

16. Issue urgent certified copy of the order as per rules.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
The 26th April, 2022/Sneha

