

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.538 of 2019

Branch Manager, Choramandalam MS Appellant
General Insurance Company Limited

Mr. A.A. Khan, Advocate

-versus-

Smt. Sushama Swain and others Respondents

Mr. B.N. Rath, Advocate for Respondent Nos.1 to 3

CORAM:

JUSTICE B. P. ROUTRAY

ORDER
14.02.2022

Order No.

09.

1. Heard Mr. A.A. Khan, learned counsel for the Appellant-Insurance Company as well as Mr. B.N. Rath, learned counsel for the Respondent Nos.1 to 3-claimants.

2. Present appeal by the insurer is against the judgment dated 08.04.2019 of the learned 4th MACT, Angul in MAC Case No.24 of 2016 wherein the learned Tribunal has granted compensation of Rs.20,30,000/- along with 6% interest per annum to the claimants from the date of filing of the application on account of death of the deceased in the motor vehicular accident dated 1.1.2016.

3. The case of the claimants is that the deceased was a renowned heavy vehicle mechanic and owner of a garage and also having transport business being the owner of one Tipper and earning more than Rs.40,000/- per month. Learned Tribunal taking his

age as 48 years has assessed the income to Rs.15,000/- per month upon guess work in absence of any definite proof of income and accordingly assessed the total amount of compensation.

4. Having heard both the parties and considering the materials brought on record with regard to the avocation of the deceased and his income, the reduced amount of compensation to the tune of Rs.15,00,000/- is proposed to the parties in course of hearing. Mr. B.N. Rath, learned counsel for the claimants-Respondent Nos.1 to 3 agrees to the same and Mr. A.A. Khan, learned counsel for the Appellant-Insurance Company leaves it to the discretion of the Court.

5. Accordingly, the award amount is reduced to the above extent that the Appellant-Insurance Company is directed to pay the said amount of compensation along with interest.

6. Accordingly, the Insurance Company is directed to deposit the modified amount of Rs.15,00,000/- (rupees fifteen lakhs only) along with interest @6% per annum from the date of filing of the claim application before the learned Tribunal within a period of two months from today; where-after the same shall be disbursed in favour of the claimants in such terms and proportion as directed by the learned Tribunal. It goes without saying that the penal interest/additional interest of 1% is waived.

7. On deposit of the award amount before the learned Tribunal and filing of a receipt evidencing the deposit with a refund application before this Court, the statutory deposit made before

this Court with accrued interest thereon shall be refunded to the Appellant-Insurance Company.

8. The MACA is disposed of with aforesaid directions.

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

(B.P. Routray)
Judge

B.K. Barik

