

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.568 of 2020

From the Judgment / Order dated 28.01.2020 passed by the learned 1st Addl. District Judge-cum-1st M.A.C.T., Cuttack in M.A.C Case No.78 of 2014.

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**The Manager (T.P. Cell), M/s.
New India Assurance Co.,
Ltd.**

Appellant

-versus-

Nirmala Sahoo & Others

Respondents

For Petitioner : M/s. S.K.Sarangi &
A.K.Nayak.

For Opp. Parties : M/s. J.P.Mohanty &
A.H.Khan.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing:07.07.2022 and Date of Order:14.07.2022

Biraja Prasanna Satapathy, J.

- 1.** This matter is taken up through Hybrid Mode.
- 2.** Heard Mr. S.K. Sarangi, learned Senior counsel for the Appellant-Company and Mr. J.P. Mohanty, learned counsel for the Claimants-Respondent Nos.1 to 4.
- 3.** This appeal has been filed by the Appellant-Company challenging the judgment dated 28.01.2020 passed in M.A.C Case No.78 of 2014 by the learned 1st Addl. District Judge-cum-1st M.A.C.T., Cuttack.

4. Mr. Sarangi, learned Senior counsel submitted that the learned Tribunal without considering the ground taken by the Appellant-Company allowed compensation to the tune of Rs.34,92,646/- with interest @ 6 % per annum payable from the date of application till its realization.

5. It is submitted that the learned Tribunal while assessing the compensation illegally deducted 1/4th of the income towards self expenditure in place of 2/3rd. It is also submitted that higher compensation was allowed in respect of other heads. Accordingly, Mr. Sarangi prayed for interference of this Court in the impugned award.

6. Mr. Mohanty, learned counsel for the Claimant-Respondents supported the impugned judgment and submitted that the learned Tribunal by following the decision of the Hon'ble Apex Court in the case of **Smt. Sarala Verma and others vs. Delhi Transport Corporation and another** reported in **2009 (2) T.A.C.677 (S.C)**, rightly assessed the compensation and no interference is called for.

7. Heard learned counsel for the Parties.

8. Perused the materials available on record. After going through the same, this Court finds that the learned Tribunal while assessing the compensation instead of deducting 2/3rd share towards as expenditure, deducted 1/4th. Taking everything into account when this Court came to a finding that the Claimant-Respondent will be entitled to get compensation of Rs.30,00,000/- by getting the rate of interest intact, Mr. Mohanty, learned counsel for

the Claimant-Respondent supported the said view of this Court.

9. Mr. Sarangi, learned Senior Counsel left the said view to the discretion of this Court.

10. In view of such stand taken by the learned counsel for the Parties, this Court while interfering with the impugned judgment held the Claimants-Respondents entitled to get compensation amount of Rs.30,00,000/- along with interest as awarded by the learned Tribunal in its order dated 28.01.2020.

11. Accordingly, this Court directs the Appellant-Company to deposit the aforesaid compensation amount along with interest before the learned Tribunal within a period of eight (8) weeks from the date of receipt of this application.

12. It is observed that on such deposit of the amount so directed by this Court, learned Tribunal shall disburse the same in favour of the Claimants-Respondents proportionately and in terms of its order dated 28.01.2020.

13. It is however observed that if the Appellant –Company fails to deposit the amount within the time indicated hereinabove, the compensation amount of Rs.30,00,000/- will carry interest @ 7 % per annum from the period starting from the expiry of the period eight weeks till its payment.

14. It is further observed that only after payment of the entire amount, the appellant-company shall be permitted to take refund of the statutory deposit along with accrued

interest from the Registry of this Court on proper identification.

15. With the aforesaid observations and directions the MACA stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 14th of July, 2022/Subrat

