

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.549 of 2019

Minati Rout and Others

....

Appellant

Mr. Janmejaya Dash, Advocate

-versus-

Baishnab Ch. Patra and Another

....

Respondents

Mr. Sayed Asif Ali, counsel for Respondent No.2

CORAM:

SHRI JUSTICE B. P. ROUTRAY

ORDER

4.4.2022

Order No.

- 09.
1. Heard Mr. J. Dash, learned counsel for the claimant – Appellants and Mr. S.A. Ali, learned counsel for insurer – Respondent No.2.
 2. Present appeal by the claimants has been filed challenging the judgment dated 16th May, 2019 of learned 4th MACT, Cuttack passed in MAC No.176 of 2009/257 of 2013 wherein compensation to the tune of Rs.1,00,000/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 28th March, 2009 has been granted on account of injuries sustained by the claimant in the motor vehicular accident dated 22nd February, 2009.
 3. Initially injured Babaji Rout filed the claim application for compensation on account of injuries sustained by him in the motor vehicular accident on 22nd February, 2009. During pendency of the

claim application the original claimant died on 23rd June, 2009. The present claimants – Appellants who are widow, children and mother of the deceased were substituted on record on 22nd September, 2014. By rejecting the contention of the present Appellants about death of the deceased due to injuries sustained by him in the accident, the learned Tribunal granted compensation of Rs.1,00,000/- for the injuries sustained by the injured in the accident.

4. Mr. Dash contends on behalf of the Appellants that despite the death of the injured due to the injuries sustained in the accident, the Tribunal has granted compensation only for the injuries sustained by him.

5. Upon hearing Mr. Ali, learned counsel for the insurer-Respondent and perusal of the impugned judgment, it reveals that though present Appellants were brought on record by substitution in 2014 but did not make out any case by amendment of pleadings that the death of deceased was due to the injuries sustained in the accident. They have also failed to produce any material in support of their contention that the death of the original claimant is due to the injuries sustained by him in the accident or any way related to the same. On the other hand, it was the specific case of the claimants that the injured Babaji Rout underwent treatment for the period from 22nd February to 27th February, 2009 and again from 3rd March to 9th March, 2009 only for such injuries sustained by him in the accident. Neither the cause of death nor any circumstances thereof has been mentioned by the claimants to throw any light on the death of the original claimant if connected to the injuries sustained by him.

Therefore the contention of the claimants to treat the death of the deceased as an outcome of the injuries sustained by him in the accident is found without substance and as such rejected.

6. In the result I do not see any infirmity in the impugned judgment of the learned Tribunal. Accordingly, the appeal is dismissed.

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

(B.P. Routray)
Judge

M.K.Panda

