IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.552 of 2019

Kshyana Prava Mohanty and Others .... ***Appellants***

Mr. Raghunath Biswal, Advocate

-versus-

Smt. Megharani @ Meghana Devi and Another .... ***Respondents***

Mr. P.K. Mahali, counsel for Respondent No.2

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
11.02.2022

Order No.

05. 1. Heard Mr. R. Biswal, learned counsel for the claimant – Appellants and Mr. P.K. Mahali, learned counsel for insurer – Respondent No.2.

2. It is submitted by Mr. Biswal that pending appeal, Appellant No.2 – Basanti Manjari Mohanty died in the year 2021.

3. Present appeal by the claimants is directed against impugned award dated 17th May, 2019 of the learned 2nd MACT, Cuttack in Misc. Case No.607 of 2001 wherein compensation to the tune of Rs.9,15,733/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 16th July, 2001 has been awarded in

favour of the claimants on account of death of the deceased in the motor vehicular accident dated 6th January, 2001.

4. It is submitted on behalf of the Appellant that the only ground of challenge is counting less income of the deceased by the learned Tribunal. It is submitted that the learned Tribunal without noting the admissible income tax limit, has deducted 10% from the salary of the deceased for the said purpose whereas the admitted fact remains that the deceased was getting Rs.6,302/- per month and the prevalent income tax limit was from Rs.1,50,000/- in the year 2001.

5. Mr. Mahali, learned counsel for the insurer does not dispute the tax limit prescribed in the year 2001.

6. Upon hearing both parties and perusal of the impugned award reveals that at page 7 of the award the learned Tribunal after calculating the annual income of the deceased at Rs.75,624/-, has deducted Rs.7,562/- there-from towards income tax. As stated earlier, since the annual income to the tune of Rs.75,624/- is much less than the taxable limit for the purpose of income tax, such a deduction from the salary is found impermissible. In other words, the annual income of the deceased should have been calculated at Rs.75,624/- instead of Rs.68,062/-. The differential amount thus comes to Rs.83,182/-. Accordingly, the total compensation amount is enhanced to Rs.9,98,915/- (i.e. Rs.9,15,733/- + Rs.83,182/-) which is payable by the insurer to the claimants.

7. It is submitted by Mr. Biswal that till date the claimants have not received a single rupee towards compensation and even the insurer has not deposited any amount before the learned Tribunal.

8. Accordingly the Insure – Respondent No.2 is directed to deposit the entire compensation amount of Rs.9,98,915/- (Nine lakh ninety-eight thousand nine hundred fifteen) before the Tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 16th July, 2001 within a period of two months from today, where-after the same shall be disbursed in favour of the claimants on such terms and conditions to be fixed by the learned Tribunal.

9. With aforesaid directions the appeal is disposed of.

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

(B.P. Routray)
Judge

M.K.Panda