IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.242 of 2021

The Oriental Insurance Company Ltd. represented by its Divisional Manager .... ***Appellant***

Mr. G.P. Dutta, Advocate

-versus-

Prafulla mahapatra and Others .... ***Respondents***

Mr. P.K. Mishra, Advocate for Respondents 2-4

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
26.7.2022

Order No.

05. 1. The matter is taken up through hybrid mode.

2. The name of Respondent No.1 be deleted in view of the memo filed and as prayed by Mr. G.P. Dutta, learned counsel for the Appellant.

3. Heard Mr. G.P. Dutta, learned counsel for the insurer – Appellant and Mr. P.K. Mishra, learned counsel for claimant – Respondents.

4. Present appeal by the insurer is directed against the impugned judgment dated 2nd April, 2021 of learned 5th MACT, Puri passed in MAC No.106/318 of 2015/2012 wherein compensation to the tune of Rs.6,37,000/- along with interest @ 7% per annum from the date of filing of the claim application, i.e. 10th August, 2012 has been granted on account of death of the deceased in the motor vehicular accident dated 28th June, 2012.

5. It is submitted by Mr. Dutta, learned counsel on behalf of the insurer that the present offending vehicle is a vehicle which is involved in several accidents. It is further submitted that the age of the deceased has been wrongly calculated to apply multiplier '14' instead of '11' since as per the voter identity card the deceased was 53 years on the date of accident. It is further submitted that the alleged dependents being the major children of the deceased, the amount deducted towards personal expenses should be counted to the extent of 1/3rd instead of 1/4th.

6. On the other hand, it is submitted by Mr. Mishra, learned counsel for the claimants that as per the post mortem examination report the age of the deceased was 43 years and the alleged dispute regarding age of the deceased as submitted by the Appellant was not pleaded before the learned tribunal and the alleged copy of the voter identity card filed on behalf of the insurer has no authenticity and the same has not been proved on record.

7. Mr. Mishra, learned counsel further submits that the learned Tribunal has not added any future prospects and also not granted any amount towards consortium to the claimants.

8. Upon hearing both parties, the ground as raised on behalf of the Appellant with regard to age of the deceased is rejected in absence of any proof to that effect and further, the contention that the offending vehicle is involved in several accidents is also rejected being without merit in absence of any evidence to that effect.

9. The submissions as made by the counsel for the claimants regarding enhancement of the compensation amount are not entertained in absence of any challenge to that effect. However, in the circumstances the award amount is confirmed but the rate of interest is reduced to 6%.

10. At this stage it is submitted by Mr. Dutta that in terms of direction of this court dated 24th August, 2021, 50% of the total award amount has been deposited before the tribunal and the same has been disbursed.

11. Considering such submissions, the appeal is disposed of with a direction to the appellant to deposit before the tribunal the remaining award amount along with interest @ 6% per annum from the date of filing of the claim application, i.e. 10th August, 2012, within two months from today, where-after the same shall be disbursed in favour of the claimants on such terms and proportion as contained in the impugned judgment.

12. The statutory deposit made by the appellant before this court along with accrued interest be refunded to the Appellant - insurer on proper application and on production of proof of deposit before the tribunal.

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

(B.P. Routray)
Judge

M.K.Panda