

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.578 of 2020

MACA No.578 of 2020 & 898 of 2019

***National Insurance Company Ltd,
represented through its Senior
Divisional, Bhubaneswar***

(in MACA No.578/2020)

Kajal Mandal and Another

(in MACA No.898/2019)

.... Appellants

Mr. B. Dasmohapatra, Advocate (in MACA No.578/2020)

Mr. P.K. Mishra, Advocate (in MACA No.898/2019)

-versus-

Kajal Mandal and Others

(In MACA No.578/2020)

Rama Chandra Pani & Another

(In MACA No.898/2019)

.... Respondents

Mr. P.K. Mishra, counsel for Respondents 1&2
(in MACA No.578 of 2020)

Mr. B. Dasmohapatra, counsel for Respondent No.2
(in MACA No.898 of 2019)

Mr. D.R. Bhokta, Central Government Counsel

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
24.11.2022

Order No.

- 07.
1. The matters are taken up through hybrid mode.
 2. Heard Mr. B. Dasmohapatra, learned counsel for the insurer, Mr. P.K. Mishra, learned counsel for the claimants and Mr. D.R. Bhokta, learned Central Government Counsel for Railways.
 3. Both the appeals being arise out of same impugned judgment, are heard together and disposed of by this common order.

4. Both the appeals are directed against the impugned judgment dated 20th September, 2019 of learned 3rd MACT, Bhubaneswar passed in MAC No.197 of 2015, wherein compensation to the tune of Rs.24,91,900/- along with interest @ 7% per annum from the date of filing of the claim application, i.e. 2nd May, 2015 has been granted on account of death of the deceased Ganesh Mandal in the motor vehicular accident dated 31st March, 2015.

5. MACA No.578 of 2020 has been filed by the insurer challenging the award and MACA No.898 of 2019 has been filed by the claimants praying for enhancement of the compensation amount.

6. The insurer raised serious objections regarding employment of the deceased as Junior Track Maintainer under South Eastern Railways and in view of the dispute, the Railway Authorities were directed to clarify the position relating to employment of the deceased.

7. Mr. D.R. Bhokta, learned CGC, by appearing on behalf of the Railways, files an affidavit sworn by the Divisional Engineer stating that the deceased Ganesh Mandal was working under SSE (Pway)/ E.Co.Rly/ Kalaparaghat from 13th March, 2015 to 31st March, 2015 as per his service record. Therefore, the dispute raised by the insurer with regard to employment and income of the deceased has no merit. The contention raised by Mr. Dasmohapatra is thus rejected.

8. The claimants have filed their appeal praying to enhance the compensation amount on the ground that assessment of monthly income to the tune of Rs.14,950/- by the tribunal is erroneous in view of the salary particulars produced on record under Ext.10. A copy of

said Ext.10, as produced in course of hearing by Mr. Mishra, shows that the deceased all total received Rs.10,089/- for the period from 13th March, 2015 to 31st March, 2015. So calculating the monthly income on the said basis, as the deceased joined in service on 13th March, 2015 and died on 31st March, 2015, it comes to Rs.15,930/-.

9. Accepting the monthly income at Rs.15,930/- and complying all the formalities of computation including future prospects to the extent of 50%, the total loss of dependency is derived at Rs.25,80,660/-. Adding Rs.80,000/- thereto towards filial consortium and Rs.30,000/- towards general damages, the total compensation is determined at Rs.26,90,660/-, payable along with interest @ 6% per annum.

10. No further submission with regard to liability of the insurer to pay the compensation amount is raised and as such, the insurer is held liable to pay the aforesaid compensation amount.

11. In the result, both the appeals are disposed of with a direction to the insurance company, i.e. National insurance Co. Ltd. to deposit the modified compensation of Rs. 26,90,660/- (twenty-six lakhs ninety thousand six hundred sixty) before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 2nd May, 2015, within a period of three months from today; where-after the same shall be disbursed in favour of claimants on such terms and proportion to be decided by the learned tribunal. However, the penal interest of 8% as directed by the tribunal is waived.

12. The statutory deposit made by the insurer before this court in MACA No.578 of 2020 along with accrued interest be refunded on

proper application and on production of proof of deposit before the tribunal.

13. The copies of depositions and documents, as filed by Mr. Mishra in course of hearing are kept on record. The affidavit filed by the Railway Authorities is formed part of the record.

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

(B.P. Routray)
Judge

M.K.Panda

