

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.17 of 2015

***Divisional Manager,
United India Insurance Co. Ltd.***

.... Appellant
Mr.R.C.Sahoo-1, Advocate

-versus-

Smt.Sakuntala Rout and others ***.... Respondents***
Mr.B.Singh, Advocate for Respondent Nos.1 & 2

**CORAM:
JUSTICE B. P. ROUTRAY**

**ORDER
19.10.2022**

Order No.

13.

1. The matter is taken up through Hybrid mode.
2. Heard Mr.Sahoo, learned counsel for the Appellant and Mr.Singh, learned counsel for the Insurer-Respondent Nos.1 & 2.
3. Present appeal by the injured-Appellant is directed against the judgment dated 12th September, 2014 of the IIIRD MACT, Balasore in M.A.C Case No.140/66 of 2013 of 2011, wherein compensation to the tune of Rs.3,70,000/- has been granted along with interest @7.5% per annum with effect from the date of filing of the claim application on account of death of the deceased in the motor vehicular accident dated 9th January, 2011.
4. Mr.Sahoo, learned counsel for the Insurer submits that, first of all, death of the deceased involving the offending vehicle is doubtful and secondly, the quantum of compensation is

excessive due to application of wrong multiplier. Misc. Case No.26 of 2015 has been filed by the appellant praying to adduce additional evidence. Through additional evidence, the copy of final form submitted by the police in the concerned police case is sought to be adduced to support the contention about non-involvement of the offending vehicle. In the Final Form, police has stated that no clue could be found regarding involvement of the alleged offending vehicle in the accident.

5. It needs to be mentioned here that, the final form submitted by the police in a police case has no evidentiary value in connection with a claim application filed under the M.V.Act. Secondly, it is seen from the contents of the final form that police has concluded about 'no clue' in absence of any eyewitness of the accident, which cannot be considered as a valid reason. Thus, it is held that copy of the charge-sheet sought to be adduced through additional evidence is of no help to the Insurer to improve its case.

6. It is further seen that the Insurer did not adduce any evidence before the Tribunal to support any of their stand. Therefore, based on the mere statement made in the final form of the police, eyewitness evidence of P.W.2 cannot be disbelieved to make out a case in favour of the Insurer.

7. Two witnesses have been examined from the side of the claimants and among them, P.W.2 is the eye-witness. He has categorically said to have seen the accident when the offending vehicle i.e., Bus bearing Registration No.OR-01D-3507 dashed the deceased from the behind, who was going by riding the

bicycle. As a result of the accident the deceased fell into the river and died. The postmortem report under Ext.5 justifies the cause of death due to a motor vehicular accident. Therefore no reason is seen in support of the contention of the Insurer to disbelieve the claim of the applicants regarding death of the deceased due to negligence on the part of the driver of the offending vehicle.

8. Next coming to the contention with regard to quantum of compensation, it is submitted by Mr.Sahoo, learned counsel for the Insurer that, the deceased was aged about 52 years on the date of accident. He has no material to support his contention. On the other hand it is seen that the Tribunal by taking the age of the deceased as 49 years has applied multiplier 13 to determine the loss of dependency. Such findings of the Tribunal regarding the age of the deceased is getting support from the statement recorded in the P.M. report under Ext.5. Therefore the contention of the Insurer to the contrary is rejected.

9. No further ground is seen to interfere with the impugned judgment of the Tribunal granting compensation to the claimants.

10. In the result, the appeal is dismissed and the Insurer is directed to deposit the entire compensation amount along with interest before the Tribunal within a period of two months from today as per its direction, which shall be disbursed to the claimants on the same terms and proportion contained in the impugned award.

11. The statutory deposit made by the Appellant with accrued interest thereon be refunded to him on proper application and on production of proof of deposit of the award amount before the learned Tribunal.

12. Urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge

C.R.Biswal

