IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.181 of 2017

Orissa State Road Transport Corporation and another	....	***Appellants***

Mr. B.K. Sahoo, Advocate

-versus-

Bhagya Naik and others	....	***Respondents***

Mr. D. Mund, Advocate for Respondent Nos.1 to 5

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
10.02.2022

Order No.
08.

1. Heard Mr. B.K. Sahoo, learned counsel for the Appellant-Insurance Company as well as Mr. D. Mund, learned counsel for the Respondent Nos.1 to 5-claimants.

2. Present appeal by the State Road Transport Corporation is against the judgment dated 01.08.2016 of the learned 3rd MACT, Dharamgarh in MAC No.34 of 2014 wherein the learned Tribunal has granted compensation of Rs.12,51,904/- along with 7% interest per annum to the claimants from the date of filing of the application i.e. 25.11.2014 on account of death of the deceased in the motor vehicular accident dated 25.10.2014.

3. It is submitted by Mr. B.K. Sahoo, learned counsel for the Appellant that the Tribunal has erred in accepting the monthly income of the deceased at Rs.4500/- in absence of any material to that effect and further, the future prospects has been erroneously

taken to the extent of 50% instead of 40% in terms of the decision rendered in the case of ***National Insurance Company Limited vs. Pranay Sethi and others, (2017) 16 SCC 680***.

4. On the other hand, Mr. Mund, learned counsel for the Respondent Nos.1 to 5 – claimants supports the impugned judgment.

5. Having heard both the parties and perusal of the impugned judgment, it reveals that in paragraph 14 of the impugned judgment the learned Tribunal has discussed the issue regarding income of the deceased. It is true that no documentary evidence has been adduced with regard to proof of income of the deceased. At the same time, considering the wages prescribed during the year 2014 i.e. Rs.150/- per day for un-skilled labourer, no illegality is seen in the finding of the learned Tribunal in fixing the monthly income of the deceased at Rs.4500/-.

6. Next coming to the aspect of future prospects, admittedly as per the law decided in ***Pranay Sethi*** (supra), the dependants are entitled to addition of 40% of the income towards future prospects as the deceased had no fixed income. Thus reducing the future prospects by 10%, i.e. fixing it to 40%, the total loss of dependency comes to Rs.9,07,200/-. Thus total compensation amount comes to Rs.11,87,200/-. However the rate of interest is fixed @ 6% per annum.

7. Accordingly, the Insurance Company is directed to deposit the modified amount of Rs.11,87,200/- (eleven lakh eighty-seven

thousand two hundred only) along with interest @6% per annum from the date of filing of the claim application i.e.25.11.2014 before the learned Tribunal within a period of two months from today; where-after the same shall be disbursed in favour of the claimants in such terms and proportion as directed by the learned Tribunal.

8. On deposit of the award amount before the learned Tribunal and filing of a receipt evidencing the deposit with a refund application before this Court, the statutory deposit made before this Court with accrued interest thereon shall be refunded to the Appellant-Insurance Company.

9. The MACA is disposed of with aforesaid direction.

10. An urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge

B.K. Barik