

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.355 of 2022

The Regional Manager (T.P. Cell), ***Appellant***
Oriental Insurance Co. Ltd.

Mr. P.K. Mahali, Advocate

-versus-

Ranjita Sethy and others ***Respondents***

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

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

14.12.2022

Order No.

I.A. No.735 of 2022

05.

1. Heard Mr. P.K. Mahali, learned counsel for the Appellant-Insurance Company as well as Mr. D. Pattanaik, learned counsel for the Respondent Nos.1 to 5-claimants.

2. Upon hearing both the parties and considering the grounds mentioned in the petition, the delay in filing the appeal is condoned.

3. The I.A. is disposed of.

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4. Heard Mr. P.K. Mahali, learned counsel for the Appellant-Insurance Company as well as Mr. D. Pattanaik, learned counsel for the Respondent Nos.1 to 5-claimants.

5. Present appeal by the insurer is directed against the judgment dated 23.12.2021 of learned 1st M.A.C.T., Kendrapara in M.A.C. Case No.80 of 2019, wherein compensation to the tune of

Rs.10,00,000/- has been granted along with interest @7% per annum to the claimants from the date of filing of the claim application, i.e.24.07.2019 on account of death of the deceased in the motor vehicular accident dated 10.11.2018.

6. Mr. P.K. Mahali, learned counsel for the insurer contends that the driver of the offending vehicle, i.e., Truck bearing Registration No.OD-05-AE-6025 did not have a valid driving license on the date of accident. According to Mr. Mahali, the driver had the license authorizing to drive a LMV only, whereas the offending vehicle is a heavy goods carriage vehicle (unladen weight 12,990 kg).

7. Mr. Pattanaik, learned counsel for the claimants – Respondents No.1 to 5, is unable to dispute the contention of Mr. Mahali regarding LMV license of the driver on the date of accident. As such, clear violation of policy conditions being noticed, the insurer is entitled for right of recovery.

8. On the question of quantum of compensation, upon hearing both parties and considering the grounds of challenge advanced, a reduced compensation of Rs.8,70,000/- along with 6% interest is proposed to the parties in course of hearing. Mr. D. Pattanaik, learned counsel for the claimants agrees to the same and Mr. P.K. Mahali, learned counsel for the Appellant-Insurance Company leaves it to the discretion of the Court. The compensation amount is accordingly fixed to that extent.

9. In the result, the Appellant – Insurance Company is directed to deposit the reduced compensation of Rs.8,70,000/- (rupees eight lakhs seventy thousand) before the Tribunal along with interest

@6% per annum from the date of filing of the claim application, i.e. 24.07.2019 within a period of two months from today; whereafter the same shall be disbursed in favour of the claimants on such terms and proportion to be decided by the Tribunal. As stated earlier, the insurer-Appellant is granted with right to recover the amount of compensation from the owner in accordance with law.

10. 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.

11. The MACA is disposed of with aforesaid directions.

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

(**B.P. Routray**)
Judge