

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.674 of 2017

Ranjit Kumar Jena

.... ***Appellant***
Mr.S.B.Das, Advocate

-versus-

Sasmita Rout and another

.... ***Respondents***
Mr.P.K.Mahali, Advocate for Respondent No.2

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
24.8.2022

Order No.

11.

1. The matter is taken up through Hybrid mode.
2. Heard Mr.Das, learned counsel for the claimant-Appellant and Mr.Mahali, learned counsel for Insurer-Respondent No.2.
3. Present appeal by the Appellant is against the judgment dated 3rd June, 2017 of the Second Motor Accident Claims Tribunal, Cuttack in Misc.Case No.185 of 2008, wherein compensation to the tune of Rs.2,51,900/- has been granted along with interest @7% per annum with effect from the date of filing of the claim application on account of injuries sustained by the claimant in the motor vehicular accident on 2nd September, 2007.
4. The main contention of the claimant-Appellant in challenging the quantum of compensation is that the Tribunal despite his permanent disability to the extent of 60% has

computed the future loss of earning capacity to the extent of 20% only. On this count only, he prays for enhancement of the quantum of compensation.

5 After hearing Mr.Mahali and perusal of the impugned judgment, it reveals that as per the permanent disability certificate furnished by the injured-.claimant under Ext.6, the extent of disability is 60%. The profession of the injured-claimant has been accepted as a driver and the Tribunal has taken his monthly income at Rs.3,000/-.

6. A copy of the disability under Ext.6 has been produced in course of hearing and in addition to the same, a fresh disability certificate issued on 10th February, 2020 stating the extent of disability up to 70% has also been filed along with I.A.No.555 of 2021.

7. Perusal of both the disability certificate satisfies that the nature of disability as permanent and thus, considering such extent of disability vis-à-vis the undisputed profession of the injured as a driver, in the opinion of this Court, the extent of loss of future earning capacity should be counted at 50%. Thus, taking the income of the injured at Rs.3,000/- per month as computed by the Tribunal, which is not disputed at the bar, the loss of earning capacity to the extent of 50% is computed to Rs.2,70,000/- against the computation of the Tribunal of Rs.1,08,000/- at the extent of 20%. The differential amount thus comes to Rs.1,62,000/- and if 6% interest is counted thereon from the date of filing of the claim application till the date of award by the Tribunal, the differential amount comes to Rs.2,49,480/-, rounded

to Rs.2,50,000/-(Two lakhs fifty thousand). Accordingly, the Insurer-Respondent No.2 is found liable to pay the further consolidated amount of Rs.2,50,000/-(two lakhs fifty thousand).

8. In the result, the appeal is disposed of with a direction to the Insurer-Respondent No.2 to pay further enhanced consolidated amount of Rs.2,50,000/-(two lakhs fifty thousand) by depositing the same before the Tribunal within a period of two months from today, which shall be disbursed in favour of the claimant.

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

(B.P. Routray)
Judge

C.R.Biswal

