

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No. 677 of 2017

***M/s. The Divisional
Manager, Oriental
Insurance Company Ltd.*** ***Appellant***

-versus-

Manju Parida & Others ***Respondents***

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
22.03.2022**

**Order
No.**

07. **1.** This matter is taken up through Hybrid mode.
- 2.** Heard learned counsel for the Appellant and learned counsel for the Claimants-Respondents.
- 3.** This appeal has been filed by the Appellant-Company challenging the judgment / order dated 12.05.2017 passed in M.A.C No.38 / 2012 by the learned 2nd Motor Accident Claim's Tribunal, Berhampur, Ganjam.

4. It is the submission of the learned counsel for the Appellant that vide the aforesaid judgment, the learned Tribunal while allowing the claim of the claimants awarded compensation of Rs.10,45,000/- with interest @ 7% per annum from the date of the filing of the application i.e. 16.11.2004 till its realization. Subsequently, the learned Tribunal in consideration of the application filed by the Appellant-Company and vide order dated 25.05.2017 reduced the compensation amount from Rs.10,45,500/- to Rs.9,77,500/-.

5. Mr. Satapathy, learned counsel appearing for the Appellant – Company vehemently argued that initially the claim petition was rejected by the learned Tribunal and against that the Claimants-Respondents moved this Court in M.A.C.A No.381 of 2014. This Court vide order dated 18.11.2014 remanded the matter for fresh disposal. After such remand of the matter, learned Tribunal without proper appreciation of the claim raised by the Claimants vis-à-vis the stand taken by the Appellant-Company directed for payment of compensation of Rs.10,45,500/-, which was subsequently reduced to Rs.9,77,500/- as per the order dated 25.05.2017.

6. It was also argued by Mr. Satapathy, learned counsel for the Appellant that though the claimants in the claim petition raised a claim for Rs.5,00,000/- but the learned Tribunal without proper appreciation of the said claim vis-à-vis the income of the Petitioner, allowed the claim on the higher side and that too with interest @ 7 % per annum, which is also on the higher side. It was also argued that while assessing the compensation amount, the learned Tribunal also wrongly added 50% of the income towards future prospects. It was also argued by Mr. Satapathy that learned Tribunal also did not look into the stand taken by the appellant-company regarding violation of the policy condition.

7. Learned counsel for the Claimants-Respondents while supporting the compensation awarded vide the impugned judgment, failed to counter the submission made by the learned counsel for the Appellants. It was also fairly admitted by the learned counsel for the Respondents that the claim was originally made for Rs.5,00,000/-.

8. Be that as it may and after hearing the parties at length, this Court when came to a view to reduce the compensation amount from

Rs.9,75,500/- to Rs.8,00,000/- with interest @ 6% per annum from the date of filing till its realization. Learned counsel for the Claimants-Respondents accepted the said view of this Court.

9. Mr. Satapathy, learned counsel for the Appellant-Company left the aforesaid view to the discretion of this Court.

10. Having heard learned counsel for the parties and in view of the stand taken by the learned counsels, I deem it fit and proper to reduce the compensation amount from Rs.9,75,500/- to Rs.8,00,000/- with interest @ 6 % per annum from the date of filing of the claim application till its realization.

11. Accordingly, while disposing the appeal, I direct the appellant-company to pay the aforesaid compensation amount of Rs.8,00,000/- with interest @ 6 % per annum from the date of filing of the application i.e. 16.11.2004 till its realization within a period of eight weeks from today.

12. Since Mr. Satapathy, learned counsel for the Appellant submitted that there is violation of the policy condition, I also held that the appellant-company shall have the right to recover the

compensation amount from the owner of the offending vehicle.

13. I also further observed that only after payment of the entire compensation amount along with interest so assessed by this Court within the aforesaid period, the appellant-company will be permitted to take refund of the statutory deposit along with accrued interest thereon from the Registry of this Court on proper identification.

14. With the aforesaid observation and direction, the MACA stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat

