

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.582 of 2019

Cholamandalam MS General Insurance Company Limited ***Appellant***

Mr. A.A. Khan, Advocate

-versus-

Haripriya Bhue and others ***Respondents***

Mr. J. Sahu, Advocate for Respondent Nos.1 to 3

CORAM:

JUSTICE B. P. ROUTRAY

ORDER
11.04.2022

Order No.

08.

1. Heard Mr. A.A. Khan, learned counsel for the Appellant-Insurance Company as well as Mr. J. Sahu, learned counsel for the Respondent Nos.1 to 3-claimants.

2. Present appeal by the insurer is directed against the judgment dated 13.05.2019 of learned 1st MACT, Bargarh in MAC No.15/2016 wherein learned Tribunal has granted compensation to the tune of Rs.35,03,284/- along with 7% interest per annum to the claimants from the date of filing of the claim application, i.e.05.01.2016 on account of death of the deceased in the motor vehicular accident dated 19.10.2015.

3. It is submitted on behalf of the Appellant that the offending Tractor bearing Registration No.OD-17-E-7072 having no permit on the date of accident has violated the policy conditions.

4. Coming to examine such contention, it is seen from the impugned judgment that the learned Tribunal has elaborately discussed the same to come to the conclusion that no permit is required for the offending vehicle since its unladen weight was below 3000 kilograms and it was not attached with any trolley. This finding of the learned Tribunal is found justified in absence of any evidence contrary to the case of the claimants. Mr. Khan, learned counsel for the Appellant fairly concedes that no evidence has been adduced from the side of the insurer except the copy of the policy. As such, no merit is seen in the contention of the Appellant with regard to violation of policy conditions.

5. On the question of quantum of compensation, the challenges advanced by the Appellant for reduction of the compensation by reducing the multiplier has no merit for consideration. It is for the reason that, the learned Tribunal has calculated the exact age of the deceased as 40 years 5 months 20 days based on service records of the deceased under Ext.11. Therefore, no point is seen in favour of the Appellant to reduce the compensation amount, which is well in terms of the settled principles. However, the rate of interest is reduced to 6% and the penal interest of 9% is waived.

6. In the result, the Appellant-Insurance Company is directed to pay the entire award amount by depositing the same before the learned Tribunal along with 6% interest from the date of filing of the claim application, i.e., 05.01.2016 within a period of two months from today; where-after the same shall be disbursed in

favour of the claimants on such terms and proportion to be decided of the Tribunal.

7. 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.

8. With aforesaid observations, the appeal is disposed of.

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

B.K. Barik

