

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.1013 of 2018

**Divisional Manager, New India
Assurance co. Ltd.**

Appellant

Mr. P.K. Panda, Advocate

-versus-

M. Saraswati & Others

Respondents

Mr. P.K. Satapathy,
Advocate

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

ORDER

24.02.2022

Order No

- 11.** 1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel for the appellant-company and learned counsel for the claimant-respondent No.1
3. This appeal has been filed by the appellant-company challenging the judgment dated 23.7.2018 passed by the learned Second MACT (Southern Division), Berhampur, Ganjam in MAC Case No.179 of 2017.
4. Learned trial court after going through the materials available on record allowed the claim of the respondents/claimants.
5. While allowing such claim, learned Tribunal allowed compensation of Rs.9,46,200/- in favour of the claimants-respondent Nos.1,2 & 3.
6. It is submitted by the learned counsel for the appellant that while passing the judgment, the appellant-company though raised a point with regard to the minimum wages applicable in favour of a skilled employee, the deceased being a conductor and coming under-skilled category employee, his minimum wages was not taken in terms of

the notification issued by the Govt. in the Labour and Employment Department at the relevant point of time. It is further submitted that learned Tribunal instead of taking the minimum wages at Rs.247.20, held the same at Rs.300/- illegally and without any material.

The aforesaid proposition of the learned counsel for the appellant was also not disputed by the learned counsel for the claimants-respondents No.1,2 & 3.

It is also submitted by the learned counsel for the appellant that had the learned Tribunal taken the minimum wages of the deceased at Rs.247.20, the compensation would not have been assessed at Rs.9,46,200/-. In view of the prescribed minimum wages at that particular time i.e. Rs.247.20, the compensation should have been assessed at Rs.6,87,300/-.

7. The aforesaid submission of the learned counsel for the appellant finds force in view of the grounds taken in the memo of appeal and non-denial of the same by the learned counsel for the claimants-respondents No.1,2 & 3. Accordingly, I am inclined to interfere with the compensation awarded vide the judgment dated 23.7.2018.

8. While interfering with the same, I hold that the claimants-respondents No.1,2 & 3 are entitled to get compensation amount of Rs.6,87,300/- and direct the appellant-company to pay the compensation amount of Rs.6,87,300/-(Rupees Six lakhs eighty seven thousand three hundred) in favour of the claimants/respondents No.1,2 & 3 proportionately in terms of the award passed by the learned Tribunal within a period of eight weeks from today.

9. It is further observed that only after payment of the aforesaid compensation amount of Rs.6,87,300/- with interest, the statutory deposit made by the appellant-company before the Registry of this Court will be returned with the accrued interest thereon.

10. With the aforesaid observation and direction, the MACA is disposed of.

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(Biraja Prasanna Satapathy)
Judge