

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.282 of 2021

***The Divisional Manager, Oriental
Insurance Company Ltd.***

.... ***Appellants***
Ms.B.Pati on behalf of
Mr.S.K.Mohanty, Advocate

-versus-

Sekhar Chandra Behera and others ***Respondents***
Mr.P.K.Mishra, Advocate for Respondent Nos.1 to 5

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
29.3.2022

Order No.

4.

1. Heard Ms.Pati on behalf of Mr.Mohanty, learned counsel for the Appellant and Mr.Mishra, learned counsel for the claimants-Respondent Nos.1 to 5.

2. Present appeal by the Insurer is directed against the judgment dated 26th March, 2021 passed by learned Member, 2nd MACT(SD), Berhampur in MAC No.178 of 2019 (60/2017-GDC), wherein compensation to the tune of Rs.19,74,000/- has been granted along with interest @ 6% per annum with effect from the date of filing of the claim application on account of death of the deceased in the motor vehicular accident dated 3rd January, 2017.

3. It is contended on behalf of the Appellant that the offending vehicle being a tanker and the driver having not a valid driving license to drive hazardous vehicle, right of recovery should be

granted in favour of the insurer for violation of the policy conditions. It is further contended that the quantum of compensation is liable to be reduced for the reason of absence of documentary evidence in support of income of the deceased to the extent of Rs.10,000/- per month. As per the submission of the learned counsel for the Appellant, it should not exceed to Rs.7416/- per month based on rate of applicable minimum wages.

4. Having heard both parties and considering the grounds advanced, a reduced compensation of Rs.16,25,000/- along with interest @6% per annum is proposed to the parties in course of hearing. This is agreed by Mr.Mishra, learned counsel for the claimants-Respondent Nos.1 to 5. Ms.B.Pati on behalf of Mr.S.K.Mohanty, learned counsel for the Insurer leaves it to the discretion of the Court. As such, the amount is fixed to that extent.

5. The Insurer-Appellant is directed to deposit the reduced compensation of Rs.16,25,000/-(Sixteen lakhs twenty five thousand) before the tribunal along with interest @6% per annum from the date of filing of the claim application within a period of two months from today; where-after the same shall be disbursed in favour of the claimants on same terms and proportion as directed by the Tribunal. However, as prayed for by the Appellant, it is open for him to seek such right of recovery, if recoverable, from the owner of the vehicle in accordance with law after affording opportunity of hearing to the owner.

6. With aforesaid modification in the compensation amount, the appeal is disposed of.

7. The statutory deposit made by the Appellant with accrued interest thereon be refunded to him on proper application and on production of proof of deposit of the award amount before the learned Tribunal.

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

(B.P. Routray)
Judge

C.R.Biswal

