

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA NO.505 OF 2015

From the Judgment/Order dated 21.06.2014 passed by the learned 3rd M.A.C.T, Balasore in M.A.C Case No.61/217 of 2013/2008.

**Legal Officer,
Reliance G.I. Co. Ltd.**

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Appellant

--: VERSUS :-

Basant Kumar Sutar & Ors.

::::

Respondents.

Appeared in this case by Video Conferencing Mode /

Hybrid Mode.

For Appellant

:::: Mr. Subrat Satpathy,
Advocate

For Respondents

:::: Mr. B. Singh
(for Respondent Nos.1 to 4)

PRESENT :

THE HON'BLE MR. JUSTICE B.P.SATAPATHY

Date of Hearing- 22.04.2022:: Date of Order- 29.04.2022

B.P.Satapathy, J. This matter is taken up through Hybrid Mode.

2. Heard Mr. Subrat Satpathy, learned counsel for the Appellant, Mr. B. Singh and associates appearing for the Claimants-Respondent Nos.1 to 4. None appeared for

Respondent Nos.5 & 7 in spite of due appearance through their respective counsels.

3. This appeal has been filed by the Appellant-Company challenging the Judgment passed by the learned 3rd MACT, Balasore dtd.21.06.2014 in MAC Case No.61/217 of 2013/2008.

4. Learned Tribunal vide the said judgment while allowing the claim application directed the Appellant-Company to pay compensation of Rs.3,36,000/- (Rupees three lakh thirty six thousand) along with interest @ 7.5% per annum payable from the date of filing of the application i.e. 27.08.2008 till its payment.

5. Mr. Satpathy, learned counsel for the Appellant submitted that learned Tribunal while allowing the claim application with the direction to pay the compensation along with interest never take into consideration the grounds raised by the Appellant-Company with regard to violation of policy condition and determination of the monthly income of the deceased on the higher side.

6. Mr. Satpathy also submitted that even though violation policy condition was raised before learned Tribunal, but learned Tribunal while allowing the claim did not allow right of recovery as against the owner of the offending vehicle. It is also submitted that learned Tribunal while allowing the claim has directed payment of interest @ 7.5% per annum, which is at the higher side and the rate of interest prevailing at that point of time can never be @ 7.5% per annum. Accordingly, Mr. Satpathy, learned

counsel for the Appellant sought for interference of this Court in the matter.

7. Mr. Singh, learned counsel appearing for Claimants-Respondent Nos.1 to 4 submitted that learned Tribunal after going through the materials available on record has rightly allowed the claim with the direction to pay the compensation amount along with interest. Accordingly, Mr. Singh submitted that no interference is called for by this Court.

8. Heard learned counsel for the Parties at length. Perused the materials available on record and after going through the same, this Court finds that learned Tribunal while assessing the compensation has allowed compensation at the higher side with regard to funeral expenses and compensation towards loss of estate, love and affection. Learned Tribunal has also allowed the interest @ 7.5% per annum, which was not the rate of interest prevailing at the relevant points of time. Not only that learned Tribunal while directing the Appellant-Company to pay the compensation has not allowed right of recovery even though violation of policy condition was raised.

9. After due consideration of the materials available on record and the submission made by the counsel appearing for both the Parties, this court came to a conclusion to reduce the compensation amount to Rs.3,00,000/- (Rupees three lakh) with interest @ 6% per annum payable from the date of filing of the application i.e. 27.10.2008 till its payment.

10. Mr. Singh, learned counsel appearing for the Claimants-Respondents while supported the aforesaid view of this Court, Mr. Satpathy, learned counsel for the Appellant-Company left the said view to the discretion of this Court.

11. Taking into account the stand taken by the respective counsel, this Court while interfering with the impugned judgment direct the Appellant-Company to pay compensation amount of Rs.3,00,000/- (Rupees three lakhs) with interest @ 6% per annum payable from the date of application i.e. 27.10.2008 till its payment with right of recovery as against Respondent No.5.

11. This Court directs the Appellant-Company to deposit the aforesaid compensation amount along with interest so assessed by this Court before the learned Tribunal within a period of 8 (eight) weeks from the date of receipt of this order. It is observed that on deposit of the compensation amount along with interest so assessed by this Court, learned Tribunal shall do well to disburse the same in favour of the Claimants-Respondents proportionately and in terms of the earlier order passed by the said Court on 21.06.2014.

12. It is observed that if the Appellant-Company fails to deposit the compensation amount along with interest so directed hereinabove within the period stipulated by this Court, Appellant-Company shall be held liable to pay interest @ 7% per annum on the compensation amount for

the period i.e. from the date of expiry of the period of 8 (eight) weeks till its payment.

13. It is further observed that since right of recovery has been allowed as against the owner-Respondent No.5, learned Tribunal prior to proceeding with any application to be filed by the Appellant-company for recovery of the said amount, shall afford reasonable opportunity of hearing to the owner-Respondent No.5 and proceed with the said application strictly in accordance with law.

14. It is also observed that only after deposit of the amount as directed by this Court by the Appellant, the Appellant will be permitted to take refund of the statutory deposit along with accrued interest from the Registry of this Court on proper identification.

15. With the aforesaid observation and direction, the appeal is disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
The 29th April, 2022/Sneha