

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.395 of 2022

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

Mr. S.J. Pradhan, Advocate

-versus-

Mamina Pradhan and others Respondents

Mrs. S. Jena, Advocate for Respondent Nos.1 to 4

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

22.12.2022

Order No.

03.

1. Heard Mr. S.J. Pradhan, learned counsel for the Appellant-Insurance Company as well as Mrs. S. Jena, learned counsel for Respondent Nos.1 to 4-claimants.

2. Present appeal by the insurer is directed against judgment dated 08.03.2022 of learned 3rd M.A.C.T., Deogarh in M.A.C. Case No.31 of 2016-80/17, wherein compensation to the tune of Rs.15,22,000/- has been granted along with simple interest @6% per annum to the claimants from the date of filing of the claim application, i.e. 22.06.2016 on account of death of the deceased in the motor vehicular accident dated 23.05.2016.

3. Mr. S.J. Pradhan, learned counsel submits for the Appellant-Insurance Company that the name of the driver of the offending vehicle, i.e. Bolero Maxi Pick-Up Van (Mahendra) bearing Registration No.OD-19-B-7044 has been manipulated by the Police in course of investigation at the behest of the claimants.

Secondly, the alleged driver, against whom the charge-sheet has been submitted, was not authorized to drive a commercial vehicle.

4. Mrs. Jena, learned counsel for claimants submits in her reply that the FIR was lodged by a Police Home-guard, who did not have any previous acquaintance with the driver and moreover, such a plea was never taken before the Tribunal.

5. It is seen from copy of the charge-sheet, as produced in course of hearing, that, the offences under Sections 279, 304-A of the I.P.C. and Section 187 of the M.V. Act have been alleged against the accused-driver, namely, Santosh Kumar Sahoo. It is explained in Police investigation report itself that, the name of the driver was wrongly mentioned in the FIR and in course of investigation it is unearthed that the actual driver was Santosh Kumar Sahoo. The charge-sheet was submitted against him. Nevertheless, this Court is not inclined to entertain such objection raised at the appellate stage for the first time, being not taken before the learned Tribunal.

6. It is further submitted by Mr. Pradhan that, even then, the accused-driver-Santosh Kumar Sahoo did not have a valid driving license in respect of commercial vehicle. This contention of Mr. Pradhan is also not held good, for the reason that the driver was having a valid driving license on the date of accident and he was authorized to drive a light motor vehicle, which was seized in course of Police investigation.

7. With regard to quantum of compensation, it is found that learned Tribunal has computed the same reasonably by applying settled propositions. However, it is seen that no amount towards consortium to the minor child has been granted. But in absence of any challenge from the side of the claimants, this Court is not inclined to enter into such dispute. As such, the amount as directed by learned Tribunal is confirmed since no point is seen for reduction of the same. Grant of penal interest @6% per annum, as directed by the Tribunal, is waived.

8. In the result, the appeal is disposed of with a direction to the Appellant–Insurance Company to deposit the entire compensation of Rs.15,22,000/- (rupees fifteen lakhs twenty-two thousand) before the Tribunal along with interest @6% per annum from the date of filing of the claim application, i.e. 22.06.2016, within a period of three months from today; where-after the same shall be disbursed in favour of the claimants-Respondents No.1 to 4 on the following terms:-

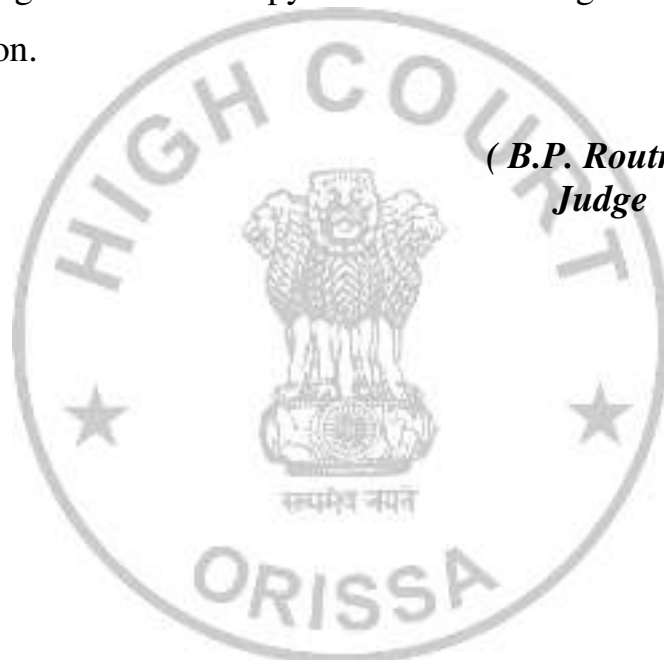
35% of the total amount shall be paid each to the widow and minor son, namely, Mamina Pradhan and Hruansu Pradhan (Respondents No.1 & 2) respectively, and 25% of the amount shall be paid to the mother-Nirada Pradhan (Respondent No.3), and rest 5% shall be paid to the father-Bhubaneswar Pradhan (Respondent No.4).

It is made clear that the entire amount given to the minor child shall be kept in fixed deposit till he attains majority and 75% of the amounts granted in favour of Respondents No.1 and 3 shall be kept in fixed deposits separately in any Nationalized

Bank for a period of five years with liberty to en-cash the interest accrued thereon quarterly.

9. 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-Insurance Company.

10. An urgent certified copy of this order be granted on proper application.



(B.P. Routray)
Judge