

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.1103 of 2018

***M/s. Shriram General Insurance
Company Ltd. represented by its
Manager, Legal*** ***Appellant***

Mr. A.A. Khan, Advocate

-versus-

Kousalya Das and Another ***Respondents***

Mr. B.N. Samantray, Counsel for Respondent No.1

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
27.7.2022

Order No.

15. 1. The matter is taken up through hybrid mode.
2. Heard Mr. A.A. Khan, learned counsel for the Appellant - insurer and Mr. B.N. Samantray, learned for claimant – Respondent No.1.
3. Present appeal by the insurer is directed against impugned judgment dated 30th July, 2018 of learned 3rd MACT, Jajpur passed in MAC Case No.146 of 2012 wherein compensation to the tune of Rs.13,55,000/- along with interest @ 7.5% per annum from the date of filing of the claim application, i.e. 28th December, 2012 has been granted on account of death of the deceased in the motor vehicular accident dated 30th July, 2012.
4. Mr. Khan while advancing his challenge submits that the death of the deceased in the accident is not established and as such the

compensation granted by the tribunal for the death of the deceased needs to be revisited.

5. Buttredding his submission, Mr. Khan states that the date of accident is 30th July, 2012 and the date of death of the deceased is on 26th August, 2014, i.e. almost two years after the accident. He therefore, contends that the death of the deceased due to the injuries sustained in the accident, in absence of post mortem examination report, is not established.

6. Admittedly, no post mortem examination has been conducted with regard to death of the deceased. Nevertheless, it is the claim of the applicant who is mother of the deceased that, after the accident, the deceased underwent treatment as indoor patient in the hospital for around two months and after his discharge also he used to regularly visit the hospital and finally the deceased succumbed to the injuries on 26th August, 2014. Such claim of the applicant is found supported from the injury report as well as the discharge certificate. The fact remains that due to the accident a lacerated injury was inflicted in the abdomen of the deceased and the abdominal materials came out. The discharge certificate issued by the Shanti Memorial Hospital under Ext.4/1, as produced by the parties in course of hearing, reveals that the deceased sustained lacerated injury of abdomen with viscerotopsis with gangrenous small gut (short gut syndrome) with # Rt. Ilic crest with # Rt. neck of femur with # base of second metacarpo-phalangeal joint. The discharge certificate and the contents therein are not disputed by the insurer being seized by police in the seizure list dated 19th September, 2012 under Ext.4. Thus, considering the nature of injuries sustained by the deceased and the evidence adduced from the

side of the claimant, the finding of the tribunal that the deceased died due to the injuries arising out of the accident cannot be faulted with. The challenges raised to the same by the Appellant is thus rejected.

7. Next considering the challenges advanced with regard to quantum of compensation, a reduced compensation of Rs.13,00,000/- along with interest @ 6% interest is proposed to the parties. This is agreed by Mr. Samantray, learned counsel for the claimant – Respondent and Mr. Khan leaves it to the discretion of the Court. As such the amount is fixed to the said extent.

8. In the result, the appeal is disposed of with a direction to the insurer – Appellant to deposit the reduced compensation of Rs.13,00,000/- (thirteen lakh) before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 28th December, 2012 within a period of two months from today; where-after the same shall be disbursed in favour of the claimant – Respondent No.1 on such terms and proportion to be decided by learned Tribunal.

9. The statutory deposit made by the appellant before this court along with accrued interest be refunded to the Appellant - insurer on proper application and on production of proof of deposit of the awarded amount before the tribunal.

10. An urgent certified copy of this order be issued as per rules.

(B.P. Routray)
Judge