

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.1106 of 2018

M/s.Bajaj Allianz G.I.Co.Ltd.

....

Appellant

Mr.A.A.Khan, Advocate

-versus-

Arati Sahoo and others

....

Respondents

Mr.B.B.Singh, Advocate for Respondent Nos. 1 to 4

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

15.12.2022

Order No.

12.

1. The matter is taken up through Hybrid mode.
2. Heard Mr.Khan, learned counsel for the Appellant-Insurer and Mr.Singh, learned counsel for Respondent Nos.1 to 4.
3. Present appeal by the Appellant is directed against judgment dated 18th May, 2018 of the 1st Additional District Judge-cum-1st MACT, Cuttack in MAC Case No.745 of 2009, wherein compensation to the tune of Rs.34,20,459/- 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 on 15th June, 2009.
4. It is submitted by Mr.Khan that the present offending vehicle i.e., the Truck bearing Registration No.OR-09-E-7322 is not involved in the accident but has been subsequently implanted to manage compensation. It is further submitted that this vehicle is involved in several accidents within few years.

5. Upon hearing Mr. Singh and on perusal of the impugned judgment, it reveals that the police upon completion of investigation has submitted the charge-sheet against the driver of the present offending truck for commission of offences under Section 279/304(A) of the I.P.C., which is not disputed. Further, no rebuttal evidence has been adduced from the side of the Insurer to counter the case of the claimants regarding involvement of the offending vehicle in the accident. Though the Insurer has examined its legal officer as O.P.W.1, but his evidence is of no help to substantiate the contention of the Insurer regarding non-involvement of the offending vehicle because said O.P.W.1 did not have any direct knowledge either regarding accident or regarding involvement of the vehicle.

6. The further contention advanced by Mr. Khan regarding delay in lodging the F.I.R. is seen without force since the deceased was under treatment for quite a long period. As such, no merit is seen in the submission of Mr. Khan to doubt involvement of the offending vehicle in the accident. The Insurer further questions the quantum of compensation by contending that the widow of the deceased has got rehabilitation appointment. It is true that the death-cum-retirement benefit received by the dependents or any such rehabilitation appointment given, would not disentitle them from getting the compensation under the M.V. Act as per settled principles. Therefore, such ground taken by the Insurer to deny the compensation is not sustainable.

7. In the result, the appeal is disposed of by confirming the amount of compensation granted by the Tribunal and the Insurer-Appellant is directed to deposit entire compensation

amount along with interest as directed by the Tribunal 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 contained in the impugned judgment. However, the penal interest of 12%, as directed by the Tribunal, is waived.

8. 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.

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

10. Copy of the deposition of O.P.W.1 as produced by Mr. Singh in course of hearing is kept on record.

(*B.P. Routray*)
Judge

C.R.Biswal