

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.1126 of 2018

The Divisional Manager,
M/s.National Insurance Co. Ltd. *Appellant*
Mr.B.Dasmohapatra, Advocate

-versus-

Reeta Pradhan and another *Respondents*
Mr.K.C.Nayak, Advocate for Respondent no. 1

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
06.09.2022

Order No.

I.A.No.1797 of 2018

- 4.
1. The matter is taken up through Hybrid mode.
 2. Upon hearing both the parties and considering the grounds mentioned in the petition, delay in filing the appeal is condoned.
 3. The I.A. is disposed of.

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4. Heard Mr.Dasmohapatra, learned counsel for the Appellant and Mr.Nayak, learned counsel for the claimant-Respondent No.1.

5. Present appeal by the Insurer is directed against the judgment dated 18th May, 2018 passed by learned District and Sessions Judge-Cum-Ist M.A.C.T., Angul in M.A.C. Case No.186 of 2016, wherein compensation to the tune of Rs.40,000/- has been granted along with interest @ 6% per annum with effect from the

date of filing of the claim application on account of injury sustained by the claimant in the motor vehicular accident dated 9th September, 2016.

6. It is submitted on behalf of the Appellant that the ex-gratia compensation amount of Rs.10,000/- received by the claimant from District Red Cross Society is liable to be adjusted from the compensation amount and further, the treatment expenses counted by the Tribunal is liable to be deducted since the District Red Cross Society borne all expenses of treatment.

7. Mr.Nayak, learned counsel for the claimant-Respondent No.1 does not dispute receipt of such ex-gratia compensation amount of Rs.10,000/-. As such, the same is liable to be adjusted from the amount of compensation.

8. Mr.Dasmohapatra, learned counsel for the Insurer substantiates his other submission about bearing of treatment expenses of injured-claimant by the District Red Cross Society from the admission made him as P.W.1 in his cross-examination. Perusal of copy of the deposition of P.W.1 though reveals that the claimant has admitted during his cross-examination to the suggestion of the Insurer that all the expenses were borne by the District Red Cross Society, but the same is not found enough to satisfy the fact that the District Red Cross Society also bear expenses of treatment after discharge of the injured-claimant from the Hospital. Moreover, the Tribunal by counting the bills under Ext.4 has assessed the treatment expenses. The said medicine bills being dated subsequent to the date of accident,

such grant of compensation in favour of the injured-claimant cannot be faulted with.

9. In the result, after adjusting Rs.10,000/- received towards ex-gratia compensation, the appeal is disposed of with a direction to the Insurer-Appellant to deposit the balance sum of Rs.30,000/- (thirty thousand) 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 claimant. Further, the Insurer-Appellant is at liberty to recover the compensation amount from the owner in accordance with law after granting him opportunity of hearing.

10. 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.

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

(B.P. Routray)
Judge