

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.933 of 2016

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

-versus-

Puspanjali Pattnaik & Ors. Respondents

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
21.06.2022

Order No

- 04.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. S. Roy, learned counsel appearing for the Appellant-Company and Mr. H.M. Dhal, learned counsel appearing on behalf of Claimant-Respondent No. 1. In spite of the appearance, nobody appeared on behalf of Respondent Nos. 2 and 3 when the matter was taken up.
3. This appeal has been filed by the Appellant-Company challenging the order dtd.05.04.2016 passed in MAC Case No. 140 of 2012 by the learned 3rd MACT, Bhanjanagar.
4. It is submitted that learned Tribunal while assessing the compensation with a direction on the Appellant-Company to pay compensation amount of Rs.32,00,000/- (Rs. Thirty two lakhs) has wrongly taken the monthly income of the deceased at Rs.42,999/- (Rs. Forty two thousand nine hundred ninety nine).

5. It is submitted that in support of the income of the deceased the document that was exhibited vide Ext. 13, the gross monthly income of the deceased was indicated at Rs.42,999/- (Rs. Forty two thousand nine hundred ninety nine) and learned Tribunal take the same as the monthly income of the deceased and calculate the compensation.

6. It is also submitted that learned Tribunal did not take the monthly income by deducting the tax to be deducted from the said income. It is further submitted that if the relevant tax will be deducted from the said income, the Claimants will not be entitled to get compensation amount of Rs.32,00,000/- (Rs. Thirty two lakhs) and it will be only Rs.29,81,000/- (Rs. Twenty nine lakhs eighty one thousand). Accordingly, Mr. Roy, learned counsel appearing for the Appellant-Company prayed for interference of this Court on the award passed by the learned Tribunal. Mr. Dhal, learned counsel appearing for the Claimant-Respondent No. 1 though supported the impugned order, but fairly submitted that learned Tribunal while calculating the monthly income has in fact not deducted the tax to be deducted from the said income. Mr. Dhal, learned counsel appearing for the Claimant-Respondent No. 1 during course of arguments also prayed that he does not want to press the cross objection that has been filed seeking enhancement of the compensation.

7. Heard learned counsel for the Parties at length. Perused the materials available on record. Taking into account the stand taken by the learned counsel appearing for the Parties, this Court finds that learned Tribunal while calculating the compensation has taken the monthly income of the deceased at Rs.42,999/- (Rs. Forty two

thousand nine hundred ninety nine), which is admittedly the gross monthly income of the deceased.

8. Therefore, this Court when came to a conclusion that the Claimants-Respondents will be entitled to get compensation amount of Rs.30,00,000/- (Rs. Thirty lakhs) with interest as has been allowed by the learned Tribunal, Mr. Dhal, learned counsel appearing for the Claimant-Respondent No. 1 supported the said view of this Court. Mr. Roy, learned counsel appearing for the Appellant-Company left the said view to the discretion of this Court.

9. In view of the such stand taken by the learned counsel appearing for the Parties, this Court while interfering with the impugned order held that the Claimants-Respondents will be entitled to get compensation amount of Rs.30,00,000/- (Rs. Thirty lakhs) with interest as is allowed by the learned Tribunal. This Court accordingly directs the Appellant-Company to deposit the compensation amount of Rs.30,00,000/- (Rs. Thirty lakhs) along with the interest so awarded by the learned Tribunal in its order dtd.05.04.2016 within a period of eight (8) weeks from the date of receipt of this Order.

10. It is observed that on such deposit of the amount, learned Tribunal shall disburse the same in favour of the Claimant in terms of the order passed on 05.04.2016. It is further observed that if the Appellant-Company will fail to deposit the amount as directed hereinabove within the time stipulated by this Court, the Claimants will be entitled to get interest @ 7% per annum for the period starting from the expiry of the period of 8(eight) weeks till its payment.

11. It is also observed that only after deposit of the amount before the learned Tribunal as directed hereinabove, the Appellant-Company shall be permitted to take refund of the statutory deposit along with accrued interest thereon from the Registry of this Court.

12. The appeal is disposed of in terms of the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha

