

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.939 of 2016

Sibanarayan Das

.... ***Appellant***
Mr.S.K.Pattnaik, Advocate

-versus-

***Divisional Manager, New India
Insurance Co. Ltd. and others***

.... ***Respondents***
Mr.S.Roy, Advocate for Respondent No.1

**CORAM:
JUSTICE B. P. ROUTRAY**

**ORDER
24.11.2022**

Order No.

8.
 1. The matter is taken up through Hybrid mode.
 2. Heard Mr.Pattnaik, learned counsel for the Appellant and Mr.Roy, learned counsel for claimant-Respondent No.1.
 3. Present appeal by the injured claimant is directed against the judgment dated 6th May, 2016 of the 1st M.A.C.T., Mayurbhanj in M.A.C. Case No.122 of 2007, wherein compensation to the tune of Rs.75,000/- has been granted on account of injuries sustained by the claimant in the motor vehicular accident on 6th June, 2007.

4. Mr.Pattnaik, learned counsel for the claimant prays for enhancement of the compensation amount mainly on the ground that the Tribunal has not considered his permanent disability nor computed the compensation in proper prospective.

5. Upon hearing Mr.Roy and perusal of the impugned judgment, it reveals that the Tribunal has granted compensation of Rs.75,000/- only on the count of medical expenses. The Tribunal even did not grant any interest on the compensation amount.

6. Mr.Pattnaik relies on subsequent certificates granted in his favour revealing continuance of permanent disability till date, by filing I.A. No. 2056 of 2016 and I.A. No. 1316 of 2022 praying to adduce additional evidence of those subsequent disability certificates dated 1st August, 2016 and 23rd June, 2022.

7. Perusal of Ext.12 coupled with those subsequent disability certificates adduced by the claimant by way of additional evidence, justifies the fact that the disability of the injured claimant is permanent in nature. However, the nature of disability is locomotor disablement. As per the claimant, he is the owner of the lodging house namely, Kalika Lodge at Purnua Hatasahi, Baripada and used to earn Rs.11,000/- per month. So, considering the nature of permanent disablement and the nature of business, the functional disability is assessed at 20%.

8. Thus taking functional disability to the extent of 20%, the income of the injured mentioned in the I.T. return under Ext.14, the nature of injuries sustained in the accident, his period of treatment and other relevant factors, without getting into the

details of computation, a total sum of Rs.2,50,000/- along with interest @6% per annum is proposed to the parties. This is agreed by Mr.Pattnaik, learned counsel for the claimant. Mr.Roy, learned counsel for the Insurer leaves it to the discretion of the Court. As such, the amount is fixed to that extent.

It needs to be mentioned here that, keeping in mind the principles rendered in the case of ***Raj Kumar vrs. Ajay Kumar and another, (2011) 1SCC 343***, the compensation amount, has been arrived.

9. In the result, the appeal is disposed of with a direction to the Insurer to deposit the compensation of Rs.2,50,000/-(Two lakhs fifty thousand) before the Tribunal along with interest @6% per annum from the date of filing of the claim application after within a period of two months from today; where-after the same shall be disbursed in favour of the claimant on such terms and proportion to be fixed by the Tribunal.

10. At this stage, it is submitted by Mr.Roy that an amount of Rs.75,000/-, as per the direction of the Tribunal, has already been disbursed in favour of the claimant.

11. In view of such submission, it goes without saying that whatever amount has already been paid in favour of the claimant is liable to be adjusted from the aforesaid compensation amount.

12. The copies of documents filed by Mr.Pattnaik in course of hearing are kept on record.

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

(B.P. Routray)
Judge

C.R.Biswal

