IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.709 of 2019

The Manager, Royal Sundaram General Insurance Company Ltd.	....	***Appellant***
		Ms. J.P. Tripathy, Advocate

-versus-

Sanjukta Sahoo and Others	....	***Respondents***
		Mr. B. Singh (1), counsel for Respondents 1-3

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
3.3.2022

Order No.

05. 1. Heard Ms. A. Dash, learned counsel for the insurer – Appellant and Mr. B. Singh (1), learned counsel for claimant – Respondents.

2. Present appeal by the insurer is against the impugned judgment dated 31st August, 2019 of the learned 1st MACT, Mayurbhanj wherein compensation to the tune of Rs.33,94,906/- along with interest @ 7% per annum from the date of filing of the claim application, i.e. 20th June, 2016 has been granted on account of death of the deceased in the motor vehicular accident dated 18th January, 2016.

3. It is submitted on behalf of the Appellant that though the alleged vehicle was not involved in the accident, but has been subsequently implanted to manage the compensation. In support of the same, it is submitted that the date of accident is 18th January, 2016 and the date of F.I.R. is 14th February, 2016, i.e. around 26 days after the

accident. It is further submitted that on the question of quantum of compensation, the learned tribunal erroneously applied multiplier ‘7’ though the deceased was left with only one year in his service. Further the monthly income of the deceased is also questioned.

4. Having heard both parties and upon perusal of the impugned judgment it reveals that admittedly the accident took place on 18th January, 2016 while the deceased was going in morning walk and due to the injuries sustained in the accident he was shifted to Bhubaneswar for his treatment where he succumbed to injuries on 20th January, 2016. Consequent to the death of the deceased in AMRI Hospital at Bhubaneswar due to injuries sustained in the accident an U.D. F.I.R. was registered in Khandagiri Police Station at Bhubaneswar on 21st January, 2016. Therefore the delay in lodging the F.I.R. from the side of the claimants cannot itself be a ground to doubt the death of the deceased in the accident or the involvement of the offending vehicle, i.e., the Scorpio bearing Registration number OD 01 B 5800. Moreover, the cause of death mentioned in the inquest report under Ext.6 and the post mortem examination report under Ext.7 supports the contention of the claimants regarding death of the deceased due to motor vehicular accident and the police has submitted charge-sheet against the driver of the said vehicle for commission of offence under Section 279/304-A of I.P.C. for rash and negligent driving. Besides all those, P.W.2 is the eye witness of the accident whose evidence could not be successfully rebutted by the insurer in the cross-examination.

5. Coming to see the quantum of compensation, it is seen that the learned Tribunal has counted his monthly income at Rs.41,599/- after statutory tax deductions. In the said approach of the tribunal no error is seen in fixing the annual loss of dependency and the learned

Tribunal by applying the ratio decided in the case of ***National Insurance Company Ltd. v. Pranay Sethi and Others (2017) 16 SCC 680*** and ***Sarla Verma v. DTC, reported in (2009) 6 SCC 121*** has computed the compensation to the tune of Rs.33,94,906/-. The submission advanced on behalf of the Appellant that the multiplier should not be '7' since the deceased was aged about 59 years and was to serve for one more year only, has no merit for consideration and rejected as such.

6. However, the rate of interest is reduced to 6% per annum.

7. In the result the appeal is disposed of with a direction to the Appellant – insurer to deposit the entire awarded amount before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 20th June, 2016 within a period of two months from today; where-after the same shall be disbursed in favour of the claimants – Respondents Nos.1 to 3 in such terms and proportions as per the direction of the learned Tribunal contained in the impugned judgment.

8. 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.

9. The appeal is disposed of.

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

(B.P. Routray)
Judge

M.K.Panda