

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.1229 of 2018

From the Judgment / Order dated 18.08.2018 passed by the learned M.A.C.T., Jagatsinghpur in M.A.C Case No.89 of 2008.

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Sr. D.M., Oriental Insurance Co., Ltd.

Appellant

-versus-

Chandramani Behera & Others

Respondents

For Petitioner : M/s. S.Roy, R.Pati,
S.K.Mohanty.

For Opp. Parties : M/s. S.K.Das, B.K.Das &
B.Behera.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing:07.07.2022 and Date of Order:14.07.2022

Biraja Prasanna Satapathy, J.

- 1.** This matter is taken up through Hybrid Mode.
- 2.** Heard Mr. S. Roy, learned counsel for the Appellant-Company and Mr. S.Das, learned counsel for the Claimants-Respondent Nos.1 to 4.
- 3.** This appeal has been filed by the Appellant-Company challenging the judgment dated 18.08.2018 passed in M.A.C Case No.89 of 2008 by the learned M.A.C.T., Jagatsinghpur.

4. Mr. Roy, learned counsel for the Appellant –Company submitted that the learned Tribunal without considering the grounds raised by the Appellant-Company illegally held the Claimants- Respondents entitled to get compensation amount of Rs.19,30,232/- along with interest @ 7 % per annum payable from the date of application till its realization.

5. Mr. Roy, learned counsel for the Appellant in support of the grounds taken in the appeal submitted that the learned Tribunal while assessing the monthly income as taken the gross salary of the deceased as his monthly income and no deduction has been made towards professional tax as due and admissible.

6. Mr. Roy also submitted that taking into consideration the age of the deceased, the learned Tribunal should not have applied multiplier “14” and it should be multiplier “13”. It is also submitted that for the alleged incident, the Claimant-Respondents also filed another claim petition in the court of 2nd M.A.C.T, Cuttack in MAC Case No.477 of 2007. The said application was dismissed vide the order dated 20.08.2016 with passing of a nil award. It is accordingly submitted that since similar claim raised by the Claimants was rejected vide award dated 20.08.2016 and the said fact though was brought to the knowledge of the learned Tribunal dealing with the present case, but learned Tribunal while allowing the claim at the higher side also allowed interest @ 7 % per annum for the period from 8.4.2008 till its realization.

7. Mr. Roy, accordingly submitted that since similar

claim made by the Claimants has been rejected with passing of nil award on 20.08.2016, the direction to pay interest @ 7 % per annum for the period 8.4.2008 till its realization is not sustainable. Accordingly, Mr. Roy prayed for interference of this court with regard to the quantum as well as the rate of interest and the period for which it is to be payable.

8. Mr. Roy further submitted that led the objection raised by the appellant-company would not have been considered by the learned Tribunal in its proper perspective, the Claimant-Respondents would have been entitled to get compensation of Rs.17,82,733/-.

9. Per contra Mr. Nayak, learned counsel appearing on behalf of the Claimants-Respondents submitted that the claim application filed by the claimants in MAC Case No.477 of 2007 was dismissed because of the fact that the claimants prosecuted the present matter before the learned 2nd MACT, Jagatsinghpur. Since a nil award has been passed on the ground of non-taking of steps by the claimants, no illegality has been committed by the learned Tribunal in directing for payment of interest for the period i.e. from the date of application till its realization.

10. Mr. Nayak also submitted that no illegality has been committed by the learned Tribunal in assessing the compensation at Rs.19,30, 232/-. But it is fairly submitted that the rate of interest allowed @ 7 % per annum may be reconsidered by this Court.

11. Heard learned counsel for the Parties.

12. Perused the materials available on record. Having heard learned counsel for the Parties, this Court when

came to a conclusion that the Claimants-Respondents will be entitled to get compensation of Rs.17,82,733/- along with interest 6% per annum payable from the date of application i.e. 8.4.2008 till 20.08.2016 and for period from 18.08.2018 till the date of payment, Mr. Nayak supported the said view of this Court.

13. Mr. Roy on the other hand left the said view to the discretion of this Court.

14. In view of such stand taken by the learned counsel for the Parties, this Court while interfering with the impugned judgment held the Claimants-Respondents entitled to get compensation amount of Rs.17,82,733/- along with interest @ 6% per annum payable for the period 8.4.2008 to 20.8.2016 and from 18.8.2018 till the date of payment.

15. Accordingly, this Court directs the Appellant-Company to deposit the aforesaid compensation amount along with interest for the period indicated hereinabove before the learned Tribunal within a period of eight weeks from the date of receipt of this order.

16. It is observed that on such deposit of the amount so indicated hereinabove, learned Tribunal shall disburse the same in favour of the claimants proportionately and in terms of the order passed on 18.08.2018.

17. It is however observed that if the appellant-company fails to deposit the amount within the time indicated by this Court, the compensation amount of Rs. 17,82,733/- will carry interest @ 7 % per annum for the period starting from the expiry of the period eight weeks till its payment.

18. It is further observed that only after payment of the

entire amount, the appellant-company shall be permitted to take refund of the statutory deposit along with accrued interest from the Registry of this Court on proper identification.

19. With the aforesaid observations and directions the MACA stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 14th of July, 2022/Subrat

