

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.323 of 2021

Manager(Legal) , M/s. Reliance Appellant
General Insurance Company
Ltd.

-versus-

Poonam Poddar & Ors. Respondents

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
06.07.2022

Order No

02.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. G.P. Dutta, learned counsel appearing for the Appellant-Company and Mr. Pradeep Kumar Mishra, learned counsel appearing on behalf of Claimants-Respondent Nos. 1 to 5.

3. This appeal has been filed by the Appellant-Company challenging the Judgment dtd.31.03.2021 passed in MAC Case No.67/2016 by the learned 1st MACT, Jajpur.

4. Ms. Dutta, learned counsel for the Appellant-Company submitted that learned Tribunal without considering the grounds taken by the Appellant-Company held the Claimants-Respondents entitled to get compensation amount of Rs.19,40,000/- (Rs. Nineteen lakh forty thousand) along with interest @ 6% per annum payable from the date of application till its payment. It is further

submitted that learned Tribunal while assessing the compensation, did not take into consideration the points raised by the Appellant-Company with regard to the contributory negligence. It is also submitted that learned Tribunal also illegally held the monthly income of the deceased at Rs.10,000/- (Rs. Ten thousand) without having any material to that effect. It is accordingly submitted that this Court may interfere with the impugned Judgment.

5. Mr. Mishra, learned counsel for the Claimant-Respondent Nos. 1 to 5 though supported the impugned Judgment, but failed to justify the action of the learned Tribunal in assessing monthly income of the deceased at Rs.10,000/- (Rs. Ten thousand). From the materials available on record, no document in support of the monthly income of the deceased has either been produced or exhibited. Therefore, in absence of any such documents in support of income, learned Tribunal should not have held the monthly income of the deceased at Rs.10,000/- (Rs. Ten thousand).

6. Heard learned counsel for the Parties. Perused the materials available on record. After going through the same, this Court when came to a conclusion that the Claimants-Respondents 1 to 5 will be entitled to get compensation amount of Rs.17,00,000/- (Rs. Seventeen lakhs) by keeping rate of interest so allowed by learned Tribunal intact, Mr. Mishra, learned counsel appearing for the Claimants-Respondents supported the said view of this Court. Mr. Dutta, learned counsel appearing for the Appellant-Company left the same to the discretion of this Court.

7. In view of such stand taken by the learned counsel appearing for the Parties, this Court while interfering with the impugned Judgment held that the Claimants-Respondents 1 to 5 will be

entitled to get compensation amount of Rs.17,00,000/- (Rs. Seventeen lakh) by keeping the rate of interest so allowed by the learned Tribunal intact. This Court accordingly directs the Appellant-Company to deposit the aforesaid compensation amount of Rs.17,00,000/- (Rs. Seventeen lakhs) along with interest so awarded by the learned Tribunal before the said Tribunal within a period of eight (8) weeks from the date of receipt of this order.

8. It is further observed that on such deposit of the compensation amount along with interest, learned Tribunal shall disburse the same in favour of the Claimants-Respondents proportionately in terms of its order dtd.31.03.201. It is however observed that if the Appellant-Company will fail to deposit the compensation amount so assessed by this Court within the time indicated hereinabove, the compensation amount will carry interest @ 7% per annum for the period starting from the expiry of the period of 8(eight) weeks till its payment.

9. It is further observed that only after deposit of entire amount along with interest 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.

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

(Biraja Prasanna Satapathy)
Judge

Sneha