

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.1233 of 2018 & MACA No.1070 of 2018

MACA No.1233 of 2018

Golap Rout and others

.... **Appellant**
Mr.R.C.Pradhan Advocate

-versus-

Niranjan Biswal and another

.... **Respondents**
Mr.P.K.Mohanty, Advocate for Respondent No.2

AND

MACA No.1070 of 2018

**Divisional Manager,
Oriental Insurance Co.Ltd.**

.... **Appellant**
Mr.P.K.Mohanty, Advocate

-versus-

Gopal Rout and others

.... **Respondents**
Mr.R.C.Pradhan, Advocate for Respondent Nos. 1 to 4

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

**ORDER
21.12.2022**

Order No.

08.

1. The matter is taken up through Hybrid mode.
2. Heard Mr.Pradhan, learned counsel for the Claimants and Mr.Mohanty, learned counsel for the Insurer.
3. Both the appeals arise out of the same judgment dated 19th May, 2018 passed by the Member, 7th M.A.C.T., Bhubaneswar, in M.A.C. Case No.200 of 2016, wherein

compensation to tune of Rs.8,26,000/- along with interest @7% per annum has been granted from the date of filing of the claim application on account of death of the deceased in the motor vehicular accident dated 4th October, 2016.

4. MACA No.1233 of 2018 has been preferred by the Claimants praying for enhancement of the compensation amount on the ground that no future prospect has been added to the income of the deceased. MACA No.1070 of 2022 has been filed by the Insurer praying to reduce the amount by disputing the age of the deceased.

5. Mr.Mohanty, learned counsel for the Insurer submits that the Tribunal has taken the age of the deceased as 45 years against the contention of the Insurer as 65 years. It is seen that, in respect of the age proof of the deceased, the claimants have produced Voter Identity Card of the deceased under Ext.7. But the Insurer by relying on a copy of the voter list of the year 2018 submits to count his age as 65 years on the date of accident. The Tribunal has rightly rejected said contention of the Insurer mainly on the ground that the voter list is of the year 2018 i.e., after two years of the death of the deceased and secondly, Voter Identity Card is a more authenticate document. No flaw is seen in such approach of the learned Tribunal and the same is confirmed.

6. With regard to quantum of compensation, the Tribunal has taken monthly income of the deceased at Rs.6000/- based on prevalent wage rate. This seems to be the right approach, since no details of income have been adduced and it is the claim of the applicants that the deceased was working as a Supervisor in Sand

Sairat Ghat. However, the age of the deceased being confirmed as 45 years, future prospect to the extent of 25% is liable to be added to the income of the deceased. Accordingly, the amount of compensation is enhanced to Rs.10,78,000/-, payable along with interest @6% per annum.

7. In the result, both the appeals are disposed with a direction to the Insurer to deposit a sum of Rs.10,78,000/- (Ten lakhs seventy eight thousand) along with interest @6% per annum before the Tribunal from the date of filing of the claim application within a period of two months from today; whereafter the same shall be disbursed in favour of the claimants on such terms and proportion to be fixed by the Tribunal.

8. The statutory deposit made by the Appellant in MACA No.1070 of 2018 along with accrued interest thereon be refunded to him on proper application and on production of proof of deposit of the award amount before the learned Tribunal.

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

(B.P. Routray)
Judge