

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.1235 of 2018

**Divisional Manager, National
Insurance Co. Ltd., Sambalpur**

Appellant

Mr. S.K. Mohanty, Advocate

-versus-

**Sabhakar @ Subhakar Sa &
Another**

Respondents

Mr. J.B. Sahu, Advocate
(for Respondent No.1)

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

28.02.2022

Order No

- 5.** 1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel for the appellant-company and learned counsel for the claimants-respondents.
3. The present appeal has been filed by the appellant-company challenging the judgment dated 1.8.2018 passed by the learned District Judge-cum- M.A.C.T (I), Balangir in MAC Case No.121 of 2012.
4. As revealed from the impugned judgment, learned Tribunal while allowing the claim of the claimant-respondents has directed for payment of compensation of Rs.1,10,256/- in favour of the claimant-respondent No.1 along with interest @6% per annum from the date of filing of the application i.e. 18.9.2012 till its realization.
5. Learned counsel for the appellant taking into account the grounds taken in the appeal vehemently argued that while passing the impugned award, learned Tribunal has wrongly taken monthly income of the claimant-respondent No.1 at Rs.6,000/-. It is also the contention of the learned counsel for the appellant-company that the driver of the offending vehicle

having no driving licence, right to recovery should have been allowed in favour of the appellant-company.

6. As seen from the record, the Respondent No.2 i.e. the owner of the offending vehicle not only appeared but also exhibited various documents which also includes the original driving licence marked as Ext.-A. The said document was exhibited without any objection from the appellant-company. Hence, the ground taken by the appellant-company that the said driving licence is fake one cannot be accepted.

7. While going through the impugned judgment, it is found that the claimant-Respondent no.1 has not exhibited any document in support of his monthly income. Therefore, learned Tribunal in absence of any document to that effect should not have taken the monthly income at Rs.6,000/-.

8. It is the submission of the learned counsel for the appellant-company that during the relevant time, the monthly income of an unskilled labour is around Rs.4,575/- and accordingly, the compensation would have been assessed at Rs.96,831/-. But the learned Tribunal has assessed the compensation wrongly at Rs.1,10,256/-.

9. I find sufficient force in the aforesaid submission of the learned counsel for the appellant-company. Accordingly while interfering with the award of compensation made vide the impugned judgment, I deem it fit and proper to reduce the said compensation amount to Rs.1,00,000/-(Rupees One lakh).

10. The claimant-respondent No.1 is accordingly entitled to get compensation amount of Rs.1,00,000/-(Rupees one lakh) along with interest @6% per annum from the date of filing of the

application i.e. 18.9.2012 till its realization within a period of eight weeks from today.

11. It is further observed that only after payment of the aforesaid compensation amount of Rs.1,00,000/- along with interest as indicated above, appellant-company will be permitted to take back the refund of the statutory deposit along with the accrued interest from the Registry of this Court.

12. With the aforesaid observation and direction, the MACA is disposed of.

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