

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.1244 of 2018

***Bajaj Allianz General Insurance Co. Appellant
Ltd.***

Mr. G.P. Dutta, Advocate

-versus-

Sabita Baral and others Respondents

Mr. B. Mohanty, Advocate for Respondent Nos.1 to 4

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

30.08.2022

Order No.

10.

1. Heard Mr. G.P. Dutta, learned counsel for the Appellant-Insurance Company as well as Mr. B. Mohanty, learned counsel for the Respondent Nos.1 to 4-claimants.

2. Present appeal by the insurer is directed against judgment dated 24.04.2018 of learned 1st M.A.C.T., Dhenkanal in M.A.C. Case No.346 of 2013 wherein compensation to the tune of Rs.8,26,000/- has been granted along with interest @7% per annum to the claimants from the date of filing of the claim application, i.e.13.12.2013 on account of death of the deceased in the motor vehicular accident dated 22.06.2008.

3. The claimants have also filed cross objection praying for enhancement of the compensation amount on their part.

4. First coming to the challenge with regard to the dispute relating to involvement of the offending truck in the accident, it is

submitted by Mr. Dutta, learned counsel on behalf of the Appellant that though Police has submitted charge-sheet stating that the motorcycle dashed against the tree, but the claimants developed their specific case by raising protest that the offending truck dashed the deceased while he was going by walk. Therefore, the case of the claimants with regard to involvement of the offending truck in the accident should not be believed.

5. Perusal of the impugned judgment reveals that the learned Tribunal at paragraphs 6 & 7 have thoroughly discussed the issue and keeping in view the statement of the witnesses made before the criminal court upon filing of the protest petition as well as the admission of the owner of the offending truck about involvement of the same in the accident and further, in absence of any rebuttal evidence from the side of the insurer, has concluded about involvement of the offending truck in the accident. The same being found without any flaw is confirmed. The submission made against the same by the insurer is thus rejected.

6. With regard to challenge relating to quantum of compensation raised by both the parties, considering all such grounds, a modified enhanced compensation of Rs.11,35,000/- along with 6% interest is proposed to the parties in course of hearing. Mr. B. Mohanty, learned counsel for the claimants-Respondent Nos.1 to 4 agrees to the same and Mr. G.P. Dutta, learned counsel for the Appellant-Insurance Company leaves it to the discretion of the Court. The compensation amount is accordingly fixed to that extent.

7. Resultantly, the Appellant-Insurance Company is directed to deposit the modified enhanced compensation amount of Rs.11,35,000/- (rupees eleven lakhs thirty-five thousand) before the Tribunal along with interest @6% per annum from the date of filing of the claim application, i.e.13.12.2013 within a period of two months from today; where-after the same shall be disbursed in favour of the claimants on such terms and proportion to be decided by the learned Tribunal.

8. On deposit of the award amount before the learned Tribunal and filing of a receipt evidencing the deposit with a refund application before this Court, the statutory deposit made before this Court with accrued interest thereon shall be refunded to the Appellant-Insurance Company.

9. The MACA is disposed of with aforesaid directions.

10. An urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge