IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.1302 of 2018 & MACA No.1271 of 2018

In MACA No.1302 of 2018

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

Mr. G.P. Dutta, Advocate

-versus-

Muktanjali Pradhan@Sahu and others .... ***Respondents***

Mr. K. Panigrahi, Advocate for Respondent Nos.1 to 4

In MACA No.1271 of 2018

Muktanjali Pradhan@Sahu and others .... ***Appellants***

Mr. K. Panigrahi, Advocate

-versus-

Rajesh Kumar Chopra and another .... ***Respondents***

Mr. G.P. Dutta, Advocate for Respondent No.2

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
16.08.2022

Order No.

MACA Nos.1302 & 1271 of 2018

07. **1.** Heard Mr. G.P. Dutta, learned counsel for the Insurance Company and Mr. K. Panigrahi, learned counsel for the claimants.

2. Both the appeals being arise out of the same judgment dated 25.08.2018 of the learned 3rd MACT, Rourkela in M.A.C. Case No.166 of 2016 wherein compensation to the tune of Rs.40,15,000/- has been granted along with interest @6% per annum to the claimants from the date of filing of the claim application on account of death of the deceased in a motor vehicular accident dated 11.03.2016, are heard together and disposed of by this common order.

3. In MACA No.1302 of 2018 filed by the Insurance Company, the award is questioned on the ground that the learned Tribunal has wrongly accepted the income of the deceased at Rs.40,000/- per month. On the other hand, the claimants in MACA No.1271 of 2018 have prayed for enhancement of the compensation amount on the ground that no future prospects has been granted to the income of the deceased and no consortium has been granted to the Claimant Nos.2, 3 and 4.

4. Upon hearing both the parties and perusal of the impugned order, it reveals from the discussions made under paragraph 9 that the learned Tribunal based on the pay slip for the month of January, 2016 under Ext.9 has determined the income of the deceased at Rs.40,000/- though the same depicts receipt of monthly salary at Rs.36,800/- as gross amount. The learned Tribunal relying on the pay revision order of the deceased, marked under Ext.10/a, took the basic pay of the deceased at Rs.36,800/- and by adding extra amount towards other allowances has calculated his monthly income at Rs.40,000/-. It needs to be mentioned here that no evidence is brought here from the side of the claimants for any extra amount to be added towards allowances.

5. Mr. G.P. Dutta, learned counsel for the Insurance Company contends that Ext.9, which is the pay slip for the month of

January, 2016, shows Treasury Bill No.107 dated 18.3.2018. Therefore such document is genuinely doubtful one and should not be relied upon. He further contends that since in the pay revision order under Ext.10/a, the option exercised is mentioned to be 'suo motu' after death of the employee, the same cannot be accepted as a valid document to rely upon.

6. Both such grounds raised by Mr. Dutta are without merit. It is for the reason that after coming into force of the ORSP Rules, 2017, the pay of the Govt. employee were revised with retrospective effect from 1.1.2016. When the deceased died in March, 2016, therefore the word 'Suo Motu' has been mentioned at Serial No.14 of the pay revision order under Ext.10/a. Admittedly the pay of the deceased was revised in February, 2018 as reveals from Ext.10/a. Accordingly, the revised salary bill from January, 2016 onwards were submitted after February, 2018. Therefore, no illegality or irregularity is noticed from Ext.9 and Ext.10/a to disbelieve the figures or words mentioned therein. As such, the contentions raised by Mr. Dutta to doubt the genuineness of those documents are rejected.

7. Considering the income of the deceased at such rate mentioned in Ext.9 and adding 15% future prospects to the same after deducting necessary amount towards professional tax and income tax payable, the annual income comes to Rs.5,00,572/-. Deducting 1/4th from the same towards personal expenses, the annual loss of dependency comes to Rs.3,75,429/-. Applying multiplier '11' thereto and adding Rs.30000/- towards general damages and Rs.1,60,000/- towards consortium (Rs.40,000/- for each of the claimants), the total compensation of Rs.43,19,719/- is arrived at, and the insurer is liable to pay the same.

8. Resultantly, both the appeals are disposed of with a direction to the Appellant-Insurance Company in MACA No.1302 of 2018 to deposit the total compensation of Rs.43,19,719/- (rupees forty-three lakhs nineteen thousand seven hundred nineteen) before the Tribunal along with interest @6% per annum from the date of filing of the claim application, i.e.16.04.2016 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.

9. On deposit of the award amount by the insurer before the learned Tribunal and filing of a receipt evidencing the deposit with refund application before this Court, the statutory deposit made in MACA No.1302 of 2018 before this Court with accrued interest thereon shall be refunded to the insurer.

10. The certified copies of the documents filed in course of hearing are kept on record.

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

(B.P. Routray)
Judge

B.K. Barik