

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.820 of 2019

D.M., ICICI Lombard General Insurance Co. Ltd. Appellant

-versus-

Budhei Nayak & Ors. Respondents

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
24.06.2022**

**Order No
07.**

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. B.N. Rath, learned counsel appearing on behalf of Claimant-Respondent Nos. 1 to 3.
3. This appeal has been filed by the Appellant-Company challenging the Judgment dtd.13.08.2019 passed in MAC Case No. 26 of 2019 by the learned District Judge –cum- 1st MACT, Nayagarh.
4. Mr. Dutta, learned counsel for the Appellant submitted that though a specific stand was taken that the deceased while riding on a motor cycle, dashed against a heap of concrete and sustained injury and later succumbed to the said injury, but learned Tribunal did not consider the said aspect in its proper prospective. Mr. Dutta further submitted that in absence of any document, learned Tribunal

held the monthly income of the deceased at Rs.7,000/- (Rs. Seven thousand) per month.

5. It is also submitted that learned Tribunal while assessing the compensation amount at Rs.12,57,600/- (Rs. Twelve lakh fifty seven thousand six hundred), awarded the compensation on different grounds at a higher rate. Accordingly, Mr. Dutta prayed for interference of this Court in the impugned Judgment. Mr. Rath, learned counsel appearing for the Claimants- Respondent Nos.1 to 3 on the other hand supported the impugned Judgment and submitted that learned Tribunal after taking into consideration all the materials available on record has rightly assessed the compensation at Rs.12,57,600/- (Rs. Twelve lakh fifty seven thousand six hundred) and no interference is called for by this Court.

6. Heard learned counsel for the Parties at length. Perused the materials available on record. Considering the submissions made by learned counsel appearing for both the Parties, this Court when came to a conclusion that the Claimants are entitled to get compensation amount of Rs.11,00,000/- (Rs. Eleven lakh) along with interest so awarded by the learned Tribunal in its Judgment dtd.13.08.2019, Mr. Rath, learned counsel appearing for the Claimants-Respondent Nos.1 to 3 supported the said view of this Court. Mr. Dutta, learned counsel appearing for the Appellant-Company left the said view to the discretion of this Court.

8. In view of such stand taken by the learned counsel appearing for both the Parties, this Court while interfering with the impugned Judgment held that the Claimants-Respondents will be entitled to get compensation amount of Rs.11,00,000/- (Rs. Eleven lakh)

along with interest so awarded by the learned Tribunal in its Judgment dtd.13.08.2019. This Court accordingly directs the Appellant-Company to deposit the aforesaid compensation amount of Rs.11,00,000/- (Rs. Eleven lakh) along with interest so awarded by the learned Tribunal within a period of eight (8) weeks from the date of receipt of this Order.

10. It is observed that on such deposit of the amount so directed hereinabove, learned Tribunal shall disburse the same in favour of the Claimants-Respondents proportionately and in terms of the order passed on 13.08.2019. It is further observed that if the Appellant-Company will fail to deposit the aforesaid compensation amount so assessed by this Court within the time indicated hereinabove, the Claimants-Respondents will be entitled to get interest @ 7% per annum for the period starting from the expiry of the period of 8(eight) weeks till its payment.

11. 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.

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

(Biraja Prasanna Satapathy)
Judge

Sneha