IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.843 of 2019

MACA Nos.843 & 747 of 2019

Oriental Insurance Co. Ltd.	***(In MACA No.843/2019)***
Golani Muduli	***(In MACA No.747/2019)***

.... ***Appellants***

Mr. Subrat Satpathy, Advocate (in MACA No.843/2019)
Mr. P.K. Mishra, Advocate (in MACA No.747/2019)

-versus-

Golani Muduli and Another	***(In MACA No.843/2019)***
Satrughan Muduli and Another	***(In MACA No.747/2019)***

.... ***Respondents***

Mr. P.K. Mishra, counsel for Respondent No.1 (in MACA No.843/2019)

Mr. Subrat Satpathy, counsel for Respondent No.2 (in MACA No.747/2019)

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
21.7.2022

Order No.

06. 1. The matters are taken up through hybrid mode.

2. Both the appeals being arising out of same impugned judgment, are heard together and disposed of by this common order.

3. Heard Mr. S. Satpathy, learned counsel for the insurer and Mr. P.K. Mishra, learned counsel for the claimant.

4. MACA No.843 of 2019 has been filed by the insurer challenging the award and MACA No.747 of 2019 has been filed by the claimant praying for enhancement of the award.

5. The prayer of the claimant in MACA No.747 of 2019 for exemption of payment of court fees is allowed for the time being.

6. Mr. Satpathy, on behalf of insurer submits that despite there are lot of discrepancies about the accident in the police papers including the F.I.R., the prayer for amendment of the W.S. as well as examination of the I.O. in evidence has been illegally rejected by the learned tribunal and the final judgment was passed fixing liability on the insurer for payment of compensation. In support of his contention he draws attention of this court to the copies of the police papers filed along with the appeal and also to the order of the learned tribunal dated 22nd December, 2018 and 2nd February, 2019.

7. Upon hearing both parties and from perusal of the records, this court is satisfied that the insurer has been deprived of due opportunity of adducing evidence and as such, the impugned judgment of the learned tribunal dated 1st August, 2019 is set aside. The matter is remanded back to the learned tribunal for fresh adjudication after giving opportunity to the insurer – appellant to amend their W.S. and adduce their evidence.

8. At the same time Mr. Mishra, learned counsel for the claimant contends that, the grounds taken by him in his appeal that the claimant has sustained 80% disability and is entitled for future prospects as well as compensation for loss of amenities of life, should also be

considered by the tribunal while adjudicating the claim application afresh for awarding compensation.

9. The claimant is permitted to raise all such grounds, as taken before this court, at the time of hearing before the learned tribunal while deciding the claim application.

10. Both parties are directed to appear before the learned tribunal on 22nd August, 2022 and the tribunal shall put all endeavour to dispose of the claim application within a period of four months there-from, i.e. not later than 22nd December, 2022.

11. Both the appeals are accordingly disposed of.

12. The statutory deposit made by the insurer in MACA No.843 of 2019 before this court along with accrued interest be refunded to the insurer on proper application.

13. An urgent certified copy of this order be issued as per rules.

(B.P. Routray)
Judge

M.K.Panda