

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.740 of 2020

Oriental Insurance Co. Ltd. ***Appellant***
Mr. P.K. Mahali, Advocate
-versus-
Ranjana Parida and others ***Respondents***
Mr. P.C. Pattnaik, Advocate for Respondent Nos.1 & 2

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
22.07.2022

Order No.

07.

1. Heard Mr. P.K. Mahali, learned counsel for the Appellant-Insurance Company as well as Mr. P.C. Pattnaik, learned counsel for the Respondent Nos.1 & 2-claimants.

2. Present appeal by the insurer is directed against judgment dated 22.06.2019 of learned 3rd M.A.C.T., Puri in M.A.C. No.125/110 of 2011/2007 wherein compensation to the tune of Rs.5,19,000/- has been granted along with simple interest @7% per annum to the claimants from the date of filing of the claim application, i.e.01.05.2007 on account of death of the deceased in the motor vehicular accident dated 13.04.2007.

3. Mr. Mahali while challenging the award submits that the finding regarding fixation of negligence on the driver of the truck is against the finding of the learned Tribunal given in MAC No.118/2007 and as such the impugned judgment is unsustainable.

4. Present appeal has been filed along with MACA No.954/2015 which was preferred by the claimants against the judgment of the learned Tribunal in MAC No.118/2007. In the said appeal, this Court by a separate order has set aside such finding of the learned Tribunal and fixed the negligence on the part of the driver of the truck.

5. In view of such discussion made in MACA No.954/2015, no merit is seen in the challenge to shift the negligence on the driver of the truck as contended by Mr. Mahali.

6. Resultantly, the contention of the insurer in the present appeal to exonerate him from the liability is rejected. However, on the challenge to the quantum of compensation, it is submitted by Mr. Mahali that the learned Tribunal has assessed the income of the deceased at higher side resulting higher compensation.

7. Upon hearing both parties and considering the grounds of challenge advanced with regard to the quantum, a reduced compensation of Rs.4,50,000/- along with 6% interest is proposed to the parties in course of hearing. Mr. P.C. Pattnaik, learned counsel for the claimants-Respondent Nos.1 & 2 agrees to the same and Mr. P.K. Mahali, learned counsel for the Appellant-Insurance Company leaves it to the discretion of the Court. The compensation amount is accordingly fixed to that extent.

8. In the result, the Appellant – Insurance Company is directed to deposit the reduced compensation of Rs.4,50,000/- (rupees four lakhs fifty thousand) before the Tribunal along with interest @6%

per annum from the date of filing of the claim application, i.e.01.05.2007 within a period of two months from today; whereafter the same shall be disbursed in favour of the claimants on such terms and proportion contained in the direction of the Tribunal.

9. It is further submitted by both the parties that an amount of Rs.50,000/- has already been received by the claimants against no fault liability. If such amount has already been paid to the claimants, the same shall be adjusted from the compensation amount.

10. 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.

11. The MACA is disposed of with aforesaid directions.

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

(B.P. Routray)
Judge