

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.755 of 2020

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

.... Appellant
Mr.A.A.Khan, Advocate

-versus-

Deepa Dash and others ***.... Respondents***
Mr.P.K.Mishra, Advocate for Respondent Nos.1 to 5
Mr.S.Mohanty, Advocate for Intervenor

**CORAM:
JUSTICE B. P. ROUTRAY**

**ORDER
21.12.2022**

Order No.

7.

1. The matter is taken up through Hybrid mode.
2. Heard Mr.Khan, learned counsel for the Appellant-Insurer and Mr.Mishra, learned counsel for claimants-Respondent Nos.1 to 5 as well as Mr.Mohanty, learned counsel for Intervenor-mother of the deceased, namely, Sankari Devi Dash.
3. Present appeal by the Insurer is against the judgment dated 23rd September, 2019 of the 3rd M.A.C.T., Jagatsinghpur, in M.A.C.Case No.335 of 2008, wherein compensation to the tune of Rs.12,14,000/- has been granted along with interest @7% per annum with effect from the date of filing of the claim application on account of death of the deceased-Pradeep Kumar Dash in the motor vehicular accident on 24th April, 2010.

4. I.A.No.1199 of 2022 has been filed by the mother of the deceased praying for intervention.

5. Mr.Mohanty, learned counsel submits that though the mother of the deceased namely, Sankari Devi Dash was not impleaded as a party in the claim application, but she is admittedly entitled to share in the compensation amount.

6. Mr.Mishra, learned counsel for the claimants-Respondents as well as Mr.Khan does not dispute the status of the Intervenor, namely, Sankari Devi Dash as the mother of the deceased-Pradeep Kumar Dash. Therefore she is treated as one of the claimants and added as Respondent No.7 in the present appeal.

7. Upon hearing Mr. Khan, learned counsel for the Insurer-Appellant as well as Mr. Mishra and Mr. Mohanty, learned counsels for the claimants-Respondents and considering all such challenges advanced by the Insurer, a reduced compensation of Rs.7,00,000/- along with interest @6% per annum is proposed to the parties in course of hearing. Mr.Mishra as well as Mr.Mohanty, learned counsels appearing for the claimants-Respondents 1 to 5 and 7 agrees to the same and Mr. Khan, learned counsel for the Insurer leaves it to the discretion of the Court. As such, the amount is fixed to that extent.

8. The Insurer-Appellant is directed to deposit the reduced compensation of Rs.7,00,000/- (Seven lakhs) before the Tribunal along with interest @6% per annum from the date of filing of the claim application within a period of two months from today; where-after the same shall be disbursed in favour of the

claimants no.1 to 5 and 7 on such terms and proportion to be fixed by the Tribunal.

9. However, as prayed by Mr.Khan, and considering the submissions that the vehicle did not have valid permit on the date of accident, the Insurer is granted liberty to seek such right of recovery, if recoverable, from the owner of the vehicle in accordance with law after affording opportunity of hearing to the owner.

10. With aforesaid modification in the compensation amount and observation made, the appeal is disposed of.

11. The statutory deposit made by the Appellant with accrued interest thereon be refunded to him on proper application and on production of proof of deposit of the award amount before the learned Tribunal.

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

(B.P. Routray)
Judge