IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.786 of 2020

The Divisional Manager, M/s. Sriram General Insurance Company Ltd. .... ***Appellant***

Mr. G.P. Dutta, Advocate

-versus-

Nirupama Mallick and Others .... ***Respondents***

Mr. B.K. Mohanty, counsel for Respondents 1 -5

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
22.7.2022

Order No.

08. 1. The matter is taken up through hybrid mode.

2. Heard Mr. G.P. Dutta, learned counsel for the insurer – Appellant and Mr. B.K. Mohanty, learned counsel for claimant – Respondents 1-5.

3. Present appeal by the insurer has been filed challenging the judgment dated 25th February, 2020 of learned 1st MACT, Cuttack passed in MAC No.1080 of 2016 wherein compensation to the tune of Rs.8,57,500/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 28th December, 2016 has been granted on account of death of the deceased in the motor vehicular accident dated 20th March, 2016.

4. Besides the quantum of compensation, the main challenge of the insurer to the impugned award is that the offending vehicle

bearing registration number OR-02-BJ-3931 is not involved in the accident. As per the contention of the insurer said vehicle has been implanted subsequently to manage compensation. In support of their contention it is submitted by Mr. Dutta that the F.I.R. was lodged after 56 days of the accident and immediately on the next day of the accident a news item was published in the local daily 'Dharitri' stating that one TATA ACE bearing registration number OD-05-F-7003 is involved in the accident.

5. Having examined such contention of the appellant, it reveals from the impugned judgment that the learned Tribunal has disbelieved such contention raised on behalf of the insurer under issue No.II. In the opinion of the tribunal the news item published in the local daily newspaper cannot be accepted in evidence in absence of direct proof. I do not see any fault in such approach of the tribunal in view of the provisions contained in Chapter-V of the Indian Evidence Act. So, this court has no hesitation to reject the contention raised by the appellant in this regard.

6. Next coming to the question of quantum of compensation, considering the grounds of challenge advanced, a reduced compensation of Rs.7,25,000/- along with interest @ 6% per annum is proposed to the parties in course of hearing. This is agreed by Mr. Mohanty, learned counsel for the claimant-Respondents and Mr. Dutta, learned counsel for the insurer leaves it to the discretion of the Court. As such, the amount is fixed to the above extent.

7. In the result the appeal is disposed of with a direction to the insurer - Appellant to deposit the reduced compensation of

Rs.7,25,000/- (seven lakh twenty-five thousand) before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 28th December, 2016 within a period of two months from today; where-after the same shall be disbursed in favour of the claimant – Respondents on such terms and proportion to be decided by learned Tribunal.

8. However, the penal interest of 12% is waived.

9. The statutory deposit made by the appellant before this court along with accrued interest be refunded to the Appellant - insurer on proper application and on production of proof of deposit of the awarded amount before the tribunal.

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

(B.P. Routray)
Judge

M.K.Panda

HIGH COURT ORISSA सत्यमेव जयते