

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.979 of 2019

***Divisional Manager, National
Insurance Company Ltd.***

....

Appellant

Mr. Subrat Satpathy, Advocate

-versus-

Chhachindra Jena and Others

....

Respondents

Mr. Sujit Sen, counsel for Respondents 1&2
Mr. K.C. Nayak, counsel for Respondent No.3

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
6.12.2022

Order No.

13. 1. The matter is taken up through hybrid mode.
2. Heard Mr. S. Satpathy, learned counsel for the insurer – Appellant, Mr. S. Sen, learned counsel for the claimant – Respondents 1 and 2 and Mr. K.C. Nayak, learned counsel for owner – Respondent No.3.
3. Present appeal by the insurer is against the impugned judgment dated 8th July, 2019 of the learned 4th MACT, Cuttack passed in MAC Case No.241 of 2015/153 of 2017, wherein compensation to the tune of Rs.19,25,276/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 17th April, 2015 has been granted on account of injuries sustained by the injured - claimant in the motor vehicular accident dated 18th January, 2015.
4. The prayer for adducing additional evidence made in IA No.750 of 2021 and I.A. No.662 of 2022 by the owner – Respondent No.3 and

claimant – Respondents 1 and 2, respectively having not objected, which are in respect of driving licence of the accused driver and current physical disability certificate of the injured – claimant, are allowed. Such documents filed along with those two interim applications are taken on record.

5. I.A. No.42 of 2022 has been filed by the Appellant – insurer to adduce the injury report and F.I.R. etc. as additional evidence. These are the same documents already brought on record before the tribunal under Ext.2, 3 and 4. Therefore, such prayer of the insurer is not entertained.

6. Mr. Satpathy disputes the quantum of compensation mainly on the ground of application of wrong multiplier and according to him, there is no need of assessing future loss of income in absence of any permanent disability. But such submission of Mr. Satpathy is repelled by the claimants by way of additional evidence.

7. Therefore, keeping in view the challenges advanced regarding quantum of compensation and considering all such grounds vis-à-vis the current disability certificate produced by the injured-claimant, a reduced compensation of Rs.14,50,000/- along with 6% interest is proposed to the parties. This is agreed by Mr. Sen, learned counsel for the claimant – Respondents and Mr. Satpathy as well as Mr. Nayak, learned counsels for the insurer and owner respectively leave it to the discretion of the court. Accordingly the compensation amount is fixed to the said extent.

8. In the result the appeal is disposed of with a direction to the Appellant – insurer to deposit the reduced compensation amount of

Rs.14,50,000/- (fourteen lakhs fifty thousand) before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 17th April, 2015, within a period of two months from today; where-after the same shall be disbursed in favour of the claimant – Respondents 1 & 2 on such terms and proportion to be decided by the learned tribunal.

9. However, the penal interest @ 12% is waived.

10. It goes without saying that the direction of the tribunal regarding right of recovery granted in favour of the insurer is left undisturbed.

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

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

(B.P. Routray)
Judge