IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.798 of 2020

National Insurance Company Ltd. .... ***Appellant***

Mr. Anupam Dash, Advocate

-versus-

Ramesh Pati and Another .... ***Respondents***

Mr. Satya Bhusan Das, counsel for Respondent No.1

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
21.02.2022

Order No.

04. 1. Heard Mr. A. Dash, learned counsel for the insurer – Appellant and Mr. S.B. Das, learned counsel for claimant – Respondent No.1.

2. The present appeal by the insurer is against the impugned judgment dated 13th January, 2020 of the learned 3rd MACT, Jajpur in MAC Case No.6 of 2008 wherein compensation to the tune of Rs.1,13,000/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 18th January, 2008 has been granted on account of injuries sustained by the claimant in the motor vehicular accident dated 4th April, 2006.

3. Mr. Dash submits on behalf of the Appellant that the injuries and the treatment as described by the claimant have been exaggerated and the learned Tribunal without having proper discussion on the same has granted higher compensation. In particular, the wiring

(nailing) in the leg of the claimant based on the medical prescriptions of 2019 under Ext.7 and Ext.8 is seriously disputed.

4. On the other hand Mr. S.B. Das, learned counsel for the claimant supports the impugned judgment and submits that keeping in view the future treatment expenses of the injured claimant, the Tribunal has assessed the compensation to the aforesaid amount.

5. Having heard both parties and perusal of the impugned judgment it reveals that the learned Tribunal under upon consideration of Ext.7 and 8 (medical prescriptions of the year 2019) along with M.O.I. (the X-ray film) has granted compensation of Rs.1,00,000/- and further added Rs.2,847/- and Rs.10,000/- to the same towards future medical expenditure and loss of income for the period of treatment respectively. It reveals from the evidence of the claimant deposed before the Tribunal as P.W.1 that he has admitted to have incurred expenses to the tune of Rs.70,000/- towards his treatment. The admitted fact remains that the claimant has not adduced any document towards his medical treatment during the relevant period or his operation and nailing. It reveals from the injury report under Ext.4 that the claimant suffered fracture of left patella along with other simple injuries. It is not clear how the doctor under Ext.7 and Ext.8 mentioned about the wiring in the leg of the claimant. Moreover, the X-ray film under M.O.I is not found mentioned in the list of exhibits at the foot of the judgment though a reference to the same is found in the body of the judgment under paragraph 9. The tribunal has also not discussed about the admissibility and evidentiary value of M.O.I. to be taken on record.

6. Thus, based on the evidence of the claimant who has stated in his evidence affidavit to have incurred Rs.70,000/- for his treatment and considering the nature of injuries mentioned under Ext.4, no sum more than that can be granted towards the expenses for treatment. As such keeping in view all such factors, an amount of Rs.70,000/- would suffice the purpose for treatment expenses including pain and suffering.

7. Further considering the avocation of the claimant as a news reporter and his earnings, the amount of Rs.10,000/- as granted by the Tribunal towards loss of earning during the period of treatment is left undisturbed.

8. Adding both the amounts, total compensation amount comes to Rs.80,000/- and the claimant is not entitled for any other amount.

9. Accordingly, the insurer is directed to deposit the reduced/modified compensation amount of Rs.80,000/- (eighty thousand) before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 18th January, 2008 within a period of two months from today; where-after the same shall be disbursed in favour of the claimant on such terms and proportion to be decided by the Tribunal.

10. Copies of deposition of P.W.1 along with Ext.4, 7 and 8 as filed by the Appellant are kept on record.

11. 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.

12. The appeal is disposed of.

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

(B.P. Routray)
Judge

M.K.Panda