

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.405 of 2021 And MACA No.107 of 2021

MACA No.405 of 2021

Pramila Mahanta and others

....

Appellants

Mr.D.C.Dey, Advocate

-versus-

Tapan Kumar Mohanty and another

....

Respondents

Mr.S.K.Sarangi, Advocate for Respondent No.2

AND

MACA No.107 of 2021

***The Divisional Manager (Legal),
M/s.New India Assurance Co.Ltd.***

....

Appellant

Mr.S.K.Sarangi, Advocate

-versus-

Pramila Mahanta and others

....

Respondents

Mr.D.C.Dey, Advocate for Respondent Nos.1 to 5

CORAM:

JUSTICE B. P. ROUTRAY

**ORDER
04.08.2022**

Order No.

6.

1. The matter is taken up through Hybrid mode.
2. Heard Mr.Dey, learned counsel for the claimants and Mr.Sarangi, learned counsel for the Insurer.
3. Both the appeals arise out of the same judgment dated 22nd December, 2020 passed by the learned Additional District Judge-Cum-4th M.A.C.T., Keonjhar in M.A.C.Case No.120/104

of 2016-15, wherein compensation to tune of Rs.13,43,676/- along with interest @7.5% per annum has been granted from the date of filing of the claim application on account of death of the deceased in the motor vehicular accident dated 6th January, 2015.

4. MACA No.107 of 2021 has been filed by the Insurer challenging the award on the ground that extra Rs.50,000/- has been granted towards mental shock which is not permissible in a case of death and Rs.35,000/- more has been granted towards funeral ceremony. MACA No.405 of 2021 has been filed by the claimants praying for enhancement of the compensation amount mainly on the ground that the income aspect of the deceased has been assessed at a lower side without computing the income from the agricultural sector as well as from business.

5. Upon hearing all the parties and considering the submissions, it is seen that such amounts of Rs.50,000/- towards mental shock and suffering has been granted by the Tribunal without any reason. Further, a sum of Rs.50,000/- towards funeral ceremony has been granted. As per the principles decided in the case of *National Insurance Company Ltd. vrs. Pranay Sethi and others*, (2017)16 SCC 680, an amount of Rs.15,000/- is to be fixed for funeral expenses.

6. So far as the contentions raised by the claimants for enhancement of the compensation amount on the grounds submitted by Mr. Dey, the same are not sustainable in absence of any supporting material. As such, the same is rejected.

6. Therefore upon analysis of the entire judgment, the impugned award is found liable for reduction of Rs.85,000/-. The modified compensation is thus fixed at Rs.12,58,676/- (Twelve lakhs fifty eight thousand six hundred seventy six).

7. In the result, both the appeals are disposed of with a direction to the Insurer i.e., New India Assurance Co. Ltd. to deposit the modified compensation of Rs.12,58,676/- (Twelve lakhs fifty eight thousand six hundred seventy six) 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 on such terms and proportion to be fixed by the Tribunal.

8. The statutory deposit made by the Appellant in MACA No.107 of 2021 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.

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

(B.P. Routray)
Judge

C.R.Biswal

