

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.413 of 2021

Manager (Legal), M/s.National Insurance Co. Ltd. ***Appellant***

Mr. B. Dasmohapatra, Advocate

-versus-

Pranati Mohanty and others ***Respondents***

Mr. P.K. Mishra, Advocate for Respondent Nos.1 & 2

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

06.04.2022

Order No.

03.

1. Heard Mr. B. Dasmohapatra, learned counsel for the Appellant-Insurance Company as well as Mr. P.K. Mishra, learned counsel for the Respondent Nos.1 & 2-claimants.

2. Present appeal by the insurer is directed against the judgment dated 26.07.2021 of learned 1st MACT, Jagatsinghpur in MAC Case No.52/2018 wherein learned Tribunal has granted compensation to the tune of Rs.35,13,164/- along with 7% interest per annum to the claimants from the date of filing of the claim application, i.e.18.06.2018 on account of death of the deceased in the motor vehicular accident dated 14.12.2017.

3. It is contended on behalf of the Appellant that though the offending vehicle, i.e. Maruti Eco Car bearing Registration No.OD-02-J-5200 was not involved in the accident, but has been implanted subsequently to manage the compensation.

4. This contention of the Appellant is found unsustainable in view of the fact that no such evidence was led on the part of the insurer before the learned Tribunal and even no such specific pleading was made. Moreover Respondent No.3, the owner of the vehicle, admitted the accident and involvement of the vehicle therein. As such the contention is rejected.

5. Considering the grounds of challenge, a reduced compensation to the tune of Rs.26,50,000/- along with 6% interest is proposed to the parties in course of hearing. Mr. P.K. Mishra, learned counsel for the claimants-Respondent Nos.1 & 2 agrees to the same and Mr. B. Dasmohapatra, learned counsel for the Appellant-Insurance Company leaves it to the discretion of the Court. The compensation amount is accordingly fixed to that extent.

6. The Appellant – Insurance Company is directed to deposit the reduced compensation of Rs.26,50,000/- (rupees twenty-six lakhs fifty thousand) before the Tribunal along with interest @6% per annum from the date of filing of the claim application, i.e.18.06.2018 within a period of two months from today; whereafter the same shall be disbursed in favour of the claimants on such terms and proportion to be decided by the Tribunal. However the penal interest @9% is waived.

7. On deposit of the award amount before the learned Tribunal and filing of a receipt evidencing the deposit with a refund application before this Court, the statutory deposit made before

this Court with accrued interest thereon shall be refunded to the Appellant-Insurance Company.

8. The MACA is disposed of with aforesaid directions.

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

(B.P. Routray)
Judge

