

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.422 of 2021

***The Divisional Manager (TP Cell),
M/s. The New India Assurance
Company Ltd.***

Appellant

Mr. G.P. Dutta, Advocate

-versus-

Smt. Sabita Bisoi and Others

Respondents

Mr. P.K. Mishra, counsel for Respondents 1-4

**CORAM:
SHRI JUSTICE B. P. ROUTRAY**

**ORDER
11.4.2022**

Order No.

06. 1. Heard Mr. G.P. Dutta, learned counsel for the insurer – Appellant and Mr. P.K. Mishra, learned counsel for claimant – Respondents.
2. Present appeal by the insurer has been filed challenging the judgment dated 9th April, 2021 of learned 1st MACT, Cuttack passed in MAC Case No.193 of 2017 wherein compensation to the tune of Rs.37,13,201/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 28th March, 2017 has been granted on account of death of the deceased in the motor vehicular accident dated 18th March, 2017.
3. The main challenge of the Appellant is that the present offending vehicle, i.e. motor cycle bearing registration number OR 05

AB 9435 has been implanted in the case which has a history of being involved in many other accidental cases.

4. Coming to examine such contention raised by the Appellant – insurer, it is seen that neither any pleading is taken to that effect nor any material in support of the same has been produced on record. Admittedly, the Appellant did not adduce any evidence except the inquest report and seizure list. Therefore, such contention is rejected outright being without substance.

5. Next coming to the question of quantum of compensation, having considered the challenges advanced by the parties on that aspect, a reduced compensation of Rs.35,00,000/- along with interest @ 6% per annum is proposed to the parties. This is agreed by Mr. Mishra, learned counsel for the claimants 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.

6. In the result, the appeal is disposed of with a direction to the insurer – Appellant to deposit a reduced compensation of Rs.35,00,000/- (thirty-five lakh) before the tribunal with interest @ 6% per annum from the date of filing of the claim application, i.e. 28th March, 2017 within a period of two months from today; where-after the same shall be disbursed in favour of the claimant – Respondent Nos.1 to 4 on such terms and proportion to be decided by the learned Tribunal.

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

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

(B.P. Routray)
Judge

M.K.Panda

