

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.8 of 2022
And
MACA No.437 of 2021

MACA No.8 of 2022

National Insurance Co. Ltd.

.... ***Appellant***
Mr.N.B.Das, Advocate

-versus-

Basant Kumar Sahoo and others ***Respondents***
Mr.P.K.Mishra, Advocate for Respondent Nos.1 and 2

AND

MACA No.437 of 2021

Basanta Kumar Sahoo and another

Appellants
Mr.P.K.Mishra, Advocate

-versus-

Dillip Kumar Mohapatra and another ***Respondents***
Mr.N.B.Das, Advocate for Respondent No.2

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
09.5.2022

Order No.

3.

1. Heard Mr.Das, learned counsel for the Insurer and Mr.Mishra, learned counsel for the claimants.

2. I.A.No.1006 of 2021 filed in MACA No.437 of 2021 is allowed and the claimants are exempted from payment of Court fee for the time being to be deposited at the time of disbursal of the award amount.

3. I.A.No.1007 of 2021 filed in MACA No.437 of 2021 is disposed of in view of the office note that there is no delay.

4. Both the appeals being directed against the same judgment are taken up together and disposed of by this common order.

5. MACA No.8 of 2022 has been preferred by the Insurer and MACA No.437 of 2021 has been preferred by the claimants.

6. The challenge in both the appeals is against the impugned judgment dated 18th February, 2021 passed by the learned District Judge-cum-1st M.A.C.T., Dhenkanal in M.A.C.Case No.253 of 2017, wherein compensation to the tune of Rs.7,08,000/- along with interest @7% 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 28th December, 2015.

7. It is submitted on behalf of the Insurer that when the date of accident is 28th December, 2015 and the date of death is 22nd January, 2016, the F.I.R. was lodged on 3rd February, 2016 and such there is every possibility of implanting the offending vehicle in the alleged accident though not involved.

8. Learned counsel for the claimants submits that learned Tribunal while granting compensation has forgotten to count

future prospects in terms of the principles rendered in the case of *National Insurance Company Ltd. vrs. Pranay Sethi and others*, (2017)16 SCC 680.

9. Upon hearing both parties and considering the grounds of challenge advanced and keeping in view the fact that, admittedly police has submitted the charge-sheet against the driver of the offending vehicle for criminal prosecution which supports the oral evidence of P.Ws.1 and 2 and that, no future prospects has been granted in the impugned judgment though the deceased was aged about 24 years on the date of accident, a modified compensation amount of Rs.9,50,000/- with 6% interest per annum is proposed to the parties. This is agreed by Mr. Mishra, learned counsel for the claimants-Respondents 1 and 2. Mr. Das, learned counsel for the Insurer leaves it to the discretion of the Court. As such, the amount is fixed to that extent.

10. The Insurer is directed to deposit the reduced compensation of Rs.9,50,000/- (Nine lakhs fifty thousand) 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.

11. With aforesaid modification in the compensation amount, both the appeals are disposed of.

12. The statutory deposit made by the Appellant in MACA No.8 of 2022 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.

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

(B.P. Routray)
Judge

