

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.459 of 2021

The Legal Manager, M/s.IFFCO- TOKIO General Insurance Company Ltd. ***Appellant***

Mr. A.A.Khan, Advocate

-versus-

Sasmita Mallik and others ***Respondents***
Mr. P.K. Mishra, Advocate for Respondent Nos.1 to 3

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
06.04.2022

Order No.

05.

1. Heard Mr. A.A. Khan, learned counsel for the Appellant-Insurance Company as well as Mr. P.K. Mishra, learned counsel for the Respondent Nos.1 to 3-claimants.

2. Present appeal by the insurer is directed against the judgment dated 24.08.2021 of learned 1st MACT, Cuttack in MAC Case No.714/2016 wherein learned Tribunal has granted compensation to the tune of Rs.44,79,600/- along with 6% interest per annum to the claimants from the date of filing of the claim application, i.e.22.10.2016 on account of death of the deceased in the motor vehicular accident dated 17.09.2016.

3. It is contended on behalf of the Appellant that though the offending vehicle, i.e.Truck bearing Registration No.OR-05-T-1866 was not involved in the accident, but has been implanted subsequently to manage the compensation.

4. This contention has been elaborately dealt with by the learned Tribunal in the impugned judgment. The contention of the Appellant was rejected on the ground that no evidence was led in support of the same and police investigation reveals involvement of the said offending vehicle in the accident and no point is there on disbelieving the same.

5. The said finding of the learned Tribunal cannot be faulted with for the admitted fact that no evidence was led on behalf of the insurer. The oral evidence adduced on behalf of the claimants is found supported from the contents of the police papers marked under Exts.1 to 9 and as such no merit is there in the contention of the Appellant.

6. Considering the question on quantum and grounds of challenge advanced thereof, a reduced compensation to the tune of Rs.35,50,000/- 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 to 3 agrees to the same and Mr. A.A. Khan, learned counsel for the Appellant-Insurance Company leaves it to the discretion of the Court. The compensation amount is accordingly fixed to that extent.

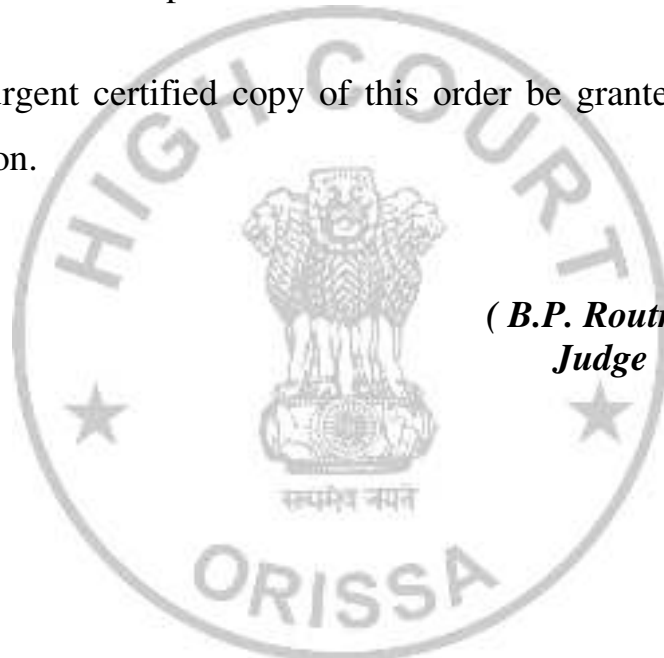
7. The Appellant – Insurance Company is directed to deposit the reduced compensation of Rs.35,50,000/- (rupees thirty-five lakhs fifty thousand) before the Tribunal along with interest @6% per annum from the date of filing of the claim application, i.e.22.10.2016 within a period of two months from today; 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 @12% is waived.

8. 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.

9. The MACA is disposed of with aforesaid directions.

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



(B.P. Routray)
Judge