IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.1313 of 2015

The Branch Manager, M/s. New India Assurance Co., Ltd.	***.....***	***Appellant*** *Mr. S. Satpathy, Advocate*
	-versus-	
Mungai Bhatra & Others	***.....***	***Respondents*** *Mr.R.L. Pattnaik, Adv.*

CORAM:
THE HON'BLE MR. JUSTICE BIRAJA PRASANNA SATAPATHY
ORDER
05.12.2024

Order No. 06

1. This matter is taken up through hybrid mode.

2. Heard learned counsel appearing for the Parties.

3. This appeal has been filed by the Appellant-Company challenging Judgment dtd.10.09.2015 so passed by the District Judge-cum-MACT, Nabarangpur in MAC Case No. 10 of 2014. Vide the said Judgment the Tribunal assessed the compensation at Rs.3,40,000/- along with interest @ 6% per annum payable from the date of filing of the claim application till its realization.

4. Learned counsel appearing for the Appellant-Company in support of the appeal contended that the Tribunal while assessing the compensation never take into consideration the fact that the deceased was a gratuitous passenger in a goods carrying vehicle and offending vehicle had no valid permit nor the accused driver had valid Driving Licence at the time of accident. It is also contended that the Tribunal without proper appreciation of the provisions contained under Section-147 vis-à-vis Section 149 of M.V. Act,

while holding the Appellant-Company liable to pay the compensation, only awarded right of recovery as against Owner-Respondent No. 3.

4.1. It is also contended that the Tribunal did not take into consideration various decisions of the Hon'ble Apex Court with regard to award of compensation on the death of a gratuitous passenger in a goods carrying vehicle.

4.2. Making all these submissions learned counsel appearing for the Appellant contended that had the Tribunal properly appreciated/assessed the points raised by the appellant, the compensation amount so awarded should have been on the lower side. It is accordingly contended that the impugned award is not sustainable in the eye of law and requires interference of this Court.

5. Mr. R.L. Pattnaik, learned counsel appearing for the Claimants-Respondents though on the other hand supported the impugned Judgment and contended that the Tribunal has rightly assessed the compensation, but in course of hearing learned counsel appearing for the Claimants-Respondents contended that the Claimants-Respondents will be fully satisfied, if this Court will assess the compensation amount at Rs.3,25,000/- along with interest @ 6% per annum payable from the date of filing of the claim application till its realization.

6. Learned counsel appearing for the Appellant-Company while left the aforesaid proposition made by the learned counsel for the Claimants-Respondents to the discretion of this Court, contended

that right of recovery so allowed by the Tribunal as against Owner-Respondent No.3 be confirmed.

7. Having heard learned counsel appearing for the Parties and considering the submissions made, this Court while interfering with the impugned Judgment, is inclined to held the Claimants-Respondent Nos.1 & 2 entitled to get compensation amount of Rs.3,25,000/- along with interest @ 6% per annum payable from the date of application till its realization and confirm the right of recovery as against Owner-Respondent No. 3. While holding so, this Court directs the Appellant-Company to deposit the compensation amount of Rs.3,25,000/- along with interest @ 6% interest per annum payable from the date of filing of the claim application till its realization before the Tribunal within a period of eight (8) weeks from the date of receipt of this order. On such deposit of the amount, the Tribunal shall disburse the same in favour of the Claimants-Respondent Nos.1 & 2 proportionately in terms of the Judgement dtd.10.09.2015.

7.1. However, it is observed that if the amount as directed is not deposited within the aforesaid time period of eight (8) weeks, the compensation amount of Rs.3,25,000/- shall carry interest @ 7% starting from the expiry of the period of eight (8) weeks till the amount is so deposited.

7.2. It is further observed that if any application is moved for recovery of the amount from the Owner/Respondent No.3, the Tribunal shall do well to dispose of the application in accordance with law and by giving due opportunity of hearing to Respondent No.1 & 2.

Statutory deposit made be returned back to the Appellant-Company along with accrued interest, if any, on proper identification by the Registry after deposit of the entire amount before the Tribunal as directed.

8. The appeal is disposed of accordingly.

(BIRAJA PRASANNA SATAPATHY)
Judge

Subrat

Signature Not Verified
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Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 13-Dec-2024 11:24:48