IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.573 of 2022
CNR No. ODHC010737842022

Pradipta Kumar Behera ..... ***Appellant***

Represented by Adv. -
Durga Charan Dey

-versus-

Mahendra Kumar Ray & Anr. ..... ***Respondents***

Represented by Adv. -
Mr. G.P.Dutta,

MACA No.271 of 2023
CNR No. ODHC010237012023

Sr. Divisional Manager, National Insurance Company Ltd. ..... ***Appellant***

Represented by Adv. -
Mr. G.P.Dutta,

-versus-

Pradipta Kumar Behera & Anr. ..... ***Respondents***

Represented by Adv. -
Durga Charan Dey

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
19.08.2026

Order No.
09.

1. This matter is taken up through Hybrid mode.

2. Since both the aforesaid appeal arises out of a common judgment involving the self-same accident, one filed by the claimant and other by the Insurance Company. Both the matters were taken up

together for final hearing and is being disposed of by the following common order.

3. In MACA No.573 of 2022, this is an appeal preferred by the claimant seeking enhancement of the compensation amount. The appeal has been filed under Sections 173 of the M.V. Act, thereby challenging the judgment dated 06.09.2022 passed in M.A.C. Case No.576 of 2017 by the learned 3rd Additional District Judge-cum-4th M.A.C.T., Cuttack. Similarly, in MACA No.271 of 2023 has been filed at the instance of the Appellant-Insurance company, thereby challenging the very same judgment in M.A.C. Case No.576 of 2017 by the very same Court. By virtue of the impugned judgment dated 06.09.2022, the learned tribunal has awarded a total compensation of Rs.3,36,715/- along with interest @ 6% with penal interest @ 12%.

4. Learned counsel for the claimant-Appellant in MACA No.573 of 2022, who is also Respondent in MACA No.271 of 2023, contended before this Court that as a result of the accident that had occurred on 24.02.2007, the injured has sustained severe compound injuries on his right leg tibia and fibula and other multiple injuries throughout his body. He further asserted that the injured became disabled immediately after the injury and he was not in a position to move. A criminal case was also registered at Markatnagar P.S. bearing P.S. Casse No.16 of 2017 under Sections 279, 337, 338 of the I.P.C. He further contended that the injured was being treated as indoor patient at Westend Hospital and Chanakya Hospital, wherein he had to undergo several grounds of surgery. Learned counsel for the Appellant further submitted that due to such hospitalisation, the injured has spent a huge of money. Accordingly, it has been stated that the injured has spent Rs.3,50,000/- towards Nursing Home

Charges and Rs.2,70,000/- towards Medicine Bills in support of his claim. Several other documentary evidence were filed before the learned tribunal in support of the claim of the claimant including discharge summary, medicine bills, prescriptions, pathology reports, cardiography reports etc. The discharge summary, which has been marked as Exhibit-7, reveals that the Appellant was treated as an indoor patient from 24.02.2017 to 01.03.2017. In view of the aforesaid evidence on record, learned counsel for the Appellant contended before this Court that the compensation that has been awarded by the tribunal is very low and that the same could have been at par with the total expenditure made by the injured his hospitalisation. The fixation of the compensation amount has also been assailed on the ground that the learned tribunal has failed to take into consideration the evidence which was already thereon record. On such ground, learned counsel for the claimant-Appellant submitted before this Court that the assessment of the loss by the learned tribunal is highly erroneous and as a result of which the impugned judgment is unsustainable in law.

5. Mr. G.P.Dutta, learned counsel appearing for the Respondent-Insurance Company, on the other hand, contended that the accident due to contributable negligence by both sides and that the award of Rs.2,00,000/- towards pain and suffering is on the higher side and the same is required to be reviewed and reduced. Accordingly, the Insurance Company has also come up by filing an appeal, which was registered under Section 173 of the M.V. Act, which has been registered as MACA No.271 of 2023. In its appeal, the Insurance Company has specifically prayed for deduction in the quantum of compensation as has been granted by the learned tribunal

6. Both the appeals arising out of the common judgment were taken up together for hearing.

7. On a careful examination of the impugned judgment dated 06.09.2022, this Court observes that the dispute involved therein can be settled amicably in the spirit of Lok Adalat. Accordingly, this Court suggested the parties to settle the matter amicably.

8. Learned counsel appearing for the Appellant-claimant in MACA No.573 of 2022, suggested that the Appellant-claimant will be satisfied with the compensation amount is enhanced modified to Rs.3,50,000/- along with 6% interest. Mr. Dutta, learned counsel for the Insurance Company, on the other hand, left it to the discretion of this Court and further contended that whatever amount would be deemed just and proper by this Court in the fact and circumstance of the present case would be acceptable to the Insurance Company.

9. Taking into consideration the factual background of the present case, and on a close scrutiny of the impugned judgment dated 06.09.2022 out of which the present appeals arise, this Court is of the view that in the event the compensation amount is modified and enhanced to Rs.3,50,000/- with 6% annual interest from the date of filing of the claim application till actual payment is made, with the further modification that the direction with regard to the penal interest shall stand waived, such fixation of compensation would be just fair and proper to both sides. Accordingly, the appeals are being disposed of by modifying the compensation amount to the extent indicated hereinabove along with interest @ 6% per annum from date of filing of the claim application till actual payment is made. Let the modified compensation amount be deposited before the learned

tribunal within eight weeks from the date of received certified copy. Thereafter, the same shall be disbursed in favour of the claimant in accordance with law. So far, in MACA No.271 of 2023, office is directed to return the statutory deposit along with accrued interest on production of a copy of the acknowledgement indicating the deposit of the modified compensation amount before the tribunal and on an application being filed by the learned counsel for the Appellant-Insurance Company.

10. With the aforesaid modification, both the appeals stand disposed of.

(Aditya Kumar Mohapatra)
Judge

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