



IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.1025 of 2023

***Branch Manager, Oriental
Insurance Co., Ltd., W.B.***

.....

Appellant

Mr. A.A. Khan, Advocate

-versus-

***Santosh Kumar Mohapatra &
Others***

.....

Respondents

*Mr. B. Singh, Advocate
(Respondent No.3)*

*Mr. H. Mohanty, Adv. for Resp.
No.1 & 2*

CORAM:
THE HON'BLE MR. JUSTICE BIRAJA PRASANNA SATAPATHY
ORDER
02.05.2025

Order No.07

1. This matter is taken up through hybrid mode.
2. Heard learned counsel appearing for the Parties.
3. The present appeal has been filed by the Appellant-Company challenging Judgment dtd.25.04.2023 so passed by the learned 1st MACT-cum-District Judge, Dhenkanal in MAC Case No. 138/2016. Vide the said Judgment the Tribunal assessed the compensation at Rs.44,45,040/- along with interest @ 7% per annum payable from the date of filing of the claim application till its realization.
4. In support of the appeal, it is contended that since two vehicles were involved in the accident, one being a Car bearing Regd. No.OR-02-BA-9844 and the deceased was travelling as an occupant in the offending Truck bearing Regd. No.WB/33/A-2585, the claimant / Respondent Nos.1 and 2 should have arrayed the owner and insurer of the Car bearing Regd. No.OR-02-BA-9844 as party to the proceeding. Since neither the owner nor the insurer of the Car



were made party to the claim application, the claim application is a defective one and suffers from non-joinder of necessary party and accordingly was not maintainable. Even if not admitting that the alleged accident took place due to the negligence of the Truck bearing Regd. No. WB/33/A-2585 and the appellant being the insurer of the said vehicle is liable to pay the compensation, but learned Tribunal has committed illegalities in not deducting the income tax of Rs.11,388/- from the assessed annual income of the deceased which comes to Rs.3,63,876/-.

4.1. It is accordingly contended that had the Tribunal properly appreciated the aforesaid contention of the appellant/claimant, the amount of compensation would have been assessed at a lower side.

5. Even though Mr. H. Mohanty, learned counsel appearing for the Claimants-Respondents supported the impugned award, but in course of hearing contended that Claimants-Respondents will have no grievance, if the compensation amount will be reduced to Rs.42,00,000/- along with interest @ 6% per annum payable from the date of filing of the claim application till its realization.

6. Mr. A.A. Khan, learned counsel appearing for the Appellant-Company left the aforesaid proposition made by the learned counsel for the Claimants-Respondents to the discretion of this Court.

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 reduce the compensation amount to Rs.42,00,000/- along with interest @ 6% per annum payable from the date of filing the claim application till its realization. This Court accordingly while holding so, directs the Appellant -Company to deposit compensation amount of Rs.



42,00,000/- along with interest @ 6% per annum payable from the date of filing of the claim application till its realization 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 proportionately in favour of the Claimant-Respondent No. 1 in full of the Judgment passed on 25.04.2023.

7.1. However, it is observed that if the amount as directed will not be deposited by the Appellant-Company within the aforesaid time period of eight (8) weeks, the compensation amount of Rs. 42,00,000/- shall carry interest @ 7% per annum for the period starting from the expiry of the period of eight (8) weeks till its payment.

7.2. On such deposit of the amount, the Appellant-Company shall be permitted to take back the statutory deposit along with accrued interest if any from the Registry on proper identification.

8. The appeal is accordingly disposed of.

(BIRAJA PRASANNA SATAPATHY)

Judge

Subrat

Signature Not Verified

Digitally Signed
Signed by: SUBRAT KUMAR BARIK
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 05-May-2025 19:17:24

