

M.A.C.A. No.271 of 2012

Misc. Case No.1319 of 2013

05 30.8.2013

This application has been filed by the claimants-appellants for exemption from payment of court fee on the cross objection for the time being.

Considering the submissions made, the claimants-appellants are exempted from payment of court fee on the cross objection for the time being, which shall be paid at the time disposal of the appeal.

Misc. Case is accordingly disposed of.

(S.C.PARIJA, J.)

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Heard learned counsel for the parties.

This appeal by the appellant-Insurance Company is directed against the judgment/award dated 11.1.2012, passed by the Motor Accident Claims Tribunal-I, Bhadrak, in M.A.C. No.148 of 2010, awarding an amount of Rs.6,76,500/- as compensation, along with interest @ 6% per annum, from the date of filing of the application i.e. 23.12.2010 till realization.

mp Learned counsel for the appellant-Insurance Company submits that as there was no documentary evidence to show that the deceased was getting Rs.4,000/- per month, learned Tribunal erred in accepting the same and calculating the compensation amount on that basis. In this regard, it is submitted that as there was no credible evidence with regard to income of the deceased, learned Tribunal should have taken the deceased to be a non-earning person and his notional income

as Rs.15,000/- per annum, for calculating the compensation amount.

Learned counsel appearing for the claimants-appellants submits that the claimants has filed a cross-objection assailing the assessment of the compensation amount. It is submitted that as the claimants had examined two witnesses i.e. P.Ws.3 and 4 in support of their claim that the deceased was earning Rs.8,000/- per month, which has not been rebutted by the Insurance Company, learned Tribunal erred in ignoring the same and taking the income of the deceased as Rs.4,000/- per month for calculating the compensation amount payable.

It is further submitted that as the claimants had also filed documentary evidence as Exts.12 to 15, to show that the deceased was working under P.W.1 and getting Rs.4,000/- per month and was also working under P.W.3 on commission basis and was getting Rs.4,000/- per month, learned Tribunal was not justified in ignoring the same and assessing the monthly income of the deceased at Rs.4,000/-. Accordingly, claimants seeks enhancement of the compensation amount awarded.

Considering the submissions made and keeping in view the findings of the learned Tribunal given in the impugned award with regard to the quantum of compensation amount awarded and the basis on which the same has been arrived at, I feel, the interest of justice would be best served, if the awarded compensation amount of Rs.6,76,500/- is modified and reduced to Rs.6,50,000/-(rupees Six Lakhs Fifty Thousand), which is payable to the claimants along with interest @ 6% per annum. The impugned award is modified to the said extent.

The appellant-Insurance Company is directed to deposit

the modified compensation amount of Rs.6,50,000/-along with interest @ 6% per annum from the date of filing of the claim application with the learned Tribunal within 6 weeks hence. On deposit of the amount, the same shall be disbursed to the claimants proportionately, as per the direction of the learned Tribunal given in the impugned award.

The statutory amount deposited in the Registry of this Court along with the accrued interest thereon shall be refunded to the appellant-Insurance Company, on production of receipt showing deposit of the modified compensation amount and interest with the Tribunal.

MACA and cross-objection are accordingly disposed of.
Issue urgent certified copy as per rules.

(S.C.PARIJA, J.)

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