

31.8.2015

Heard learned counsel for the parties.

This appeal by the appellant-Insurance Company is directed against the judgment/award dated 15.5.2013, passed by the 2nd Motor Accident Claims Tribunal, Northern Division, Sambalpur, in MAC Case No.322 of 1999 (Sundargarh), awarding an amount of Rs.2,50,000/- as compensation along with interest @ 6% per annum from the date of filing of the claim application, till actual payment.

Learned counsel for the appellant-Insurance Company submits that as the driver of the offending vehicle has been charge-sheeted under Section 302 I.P.C., the learned Tribunal erred in holding that the driver of the offending vehicle was rash and negligent in causing the accident. In this regard, it is submitted that as it was an intentional act of murder, the finding regarding rash and negligent of the accused-driver cannot be sustained. It is further submitted that as the claimants are the brothers and sisters of the deceased, they are not the dependants of the deceased and therefore, the assessment of the compensation amount is not proper and justified.

On a perusal of the impugned award, it is seen that the learned Tribunal has taken into consideration the evidence on record, both oral and documentary, including the police papers and the M.V.I. Report (Ext.4), in coming to hold that the driver of the offending vehicle (Tractor) no.OR-14-B/8821 was rash and negligent in causing the accident, which resulted in the death of the deceased Goura Chandra Nayak. Merely because the accused driver of the offending vehicle was charge-sheeted for murder under Section 302 I.P.C., the same does not take away the act from being rash and negligent for the purpose of awarding compensation under Section 166 of the M.V.Act. Hence the findings of the learned Tribunal in that regard cannot be faulted.

However, keeping in view 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.2,50,000/- is modified and reduced to Rs.2,00,000/-(rupees Two Lakhs) only, which is payable to the claimants along with the awarded interest. The impugned award is modified to the said extent.

The appellant-Insurance Company is directed to deposit the modified compensation amount of Rs.2,00,000/-along with the awarded interest 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 is accordingly disposed of.

Issue urgent certified copy as per rules.

(S.C.PARIJA, J.)