



IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.392 of 2024

**New India Assurance Co.
Ltd.**

....

Appellant
Mr. S. Roy, Advocate

-versus-

***Santosh Kumar Panda
and Another***

....

Respondents
Mr. R.K. Panda, Advocate for R-1

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
28.02.2025**

Order No.

06. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. S. Roy, learned counsel appearing for the Appellant-Company and Mr. R.K. Panda, learned counsel appearing for the Respondent No.1-Claimant.

3. This appeal has been filed by the Appellant-Company challenging Judgment dtd.17.11.2023 so passed by the learned 1st Addl. District Judge-cum-Member, 5th MACT, Khordha in MAC Case No.34 of 2017. Vide the said Judgment the Tribunal assessed the compensation at Rs.5,74,000/- along with interest @ 6% per annum payable from the date of filing of the claim application till its realization.



3.1. Learned counsel for the Appellant-Company contended that while assessing the compensation at Rs.5,74,000/-, the Tribunal never take into consideration as to whether the offending Winger Bus bearing Registration No.OD-21-C-1266 caused the accident on 01.04.2017 and whether due to the rash and negligent driving of the accused driver, accident occurred, causing death of the deceased. It is contended that even though such a plea was taken before the Tribunal by the Appellant-Company, but the same was never taken into consideration while assessing the compensation at Rs.5,74,000/-.

3.2. In support of the appeal, learned counsel for the appellant-company further contended that while awarding compensation the monthly income of the deceased was taken at Rs.300/- per day i.e. Rs.9000/- per month, though at the relevant point of time, minimum wages of an unskilled worker was at Rs.213.50/-. Taking into account the occupation of the deceased, minimum wages prescribed for unskilled worker at Rs.213.50/- should have been taken as the daily income of the deceased. It is also contended that the tribunal while awarding the compensation only deducted 1/3rd of the monthly income towards her personal and living expenses, even though the same should have been 50% of the monthly income of the deceased.



3.3. Making all these submissions learned counsel appearing for the Appellant-company contended that had the Tribunal properly appreciated the stand of the Appellant, the compensation amount so awarded would 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.

4. Even though Mr. R.K. Panda, learned counsel appearing for the Claimant-Respondent No.1 supported the impugned award, but in course of hearing contended that the Claimant-Respondent No.1 will have no grievance, if the compensation amount will be reduced to Rs.4,48,000/-, with interest @ 6% per annum payable from the date of application till its realization.

5. Mr. S. Roy, learned counsel appearing for the Appellant-Company left the aforesaid proposition made by the learned counsel for the Claimant-Respondent No.1 to the discretion of this Court.

6. Having heard learned counsel appearing for the Parties, considering the submissions made and in view of the fact that this Court while interfering with the impugned Judgment dtd.17.11.2023 is inclined to reduce the same and held the Claimant-Respondent No.1 entitled to get compensation amount of Rs.4,48,000/- with interest @ 6% per annum payable from the date of filing of the application till its



realization. While holding so, this Court directs the Appellant-Company to deposit the aforesaid compensation amount along with interest within a period of eight (8) weeks from the date of receipt of this order. On such deposit of the amount, learned tribunal shall do well to disburse the amount proportionately in terms of the judgment dated 17.11.2023 in favour of the Claimant-Respondent No.1.

6.1. 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.4,48,000/- shall carry interest @ 7% per annum for the period starting from the expiry of the period of eight (8) weeks till it is deposited before the Tribunal.

6.2. It is observed that only after deposit of the amount as directed, appellant will be permitted to take refund of the statutory deposit along with accrued interest if any from the Registry on proper identification.

7. The appeal is accordingly disposed of.

(Biraja Prasanna Satapathy)
Judge