

(2013) 09 OHC CK 0053
In the Orissa High Court
Case No : M.A.C.A. No. 622 of 2012

B.M., B.A.G.I. Co. Ltd.

APPELLANT

Vs

Manika @ Manab Hansdah

RESPONDENT

Date of Decision : 04-09-2013

Acts Referred:

Citation : (2013) 09 OHC CK 0053

Hon'ble Judges : S.C. Parija, J

Bench : Single Bench

Final Decision : Disposed Off

Judgement

S.C. Parija, J.—Heard learned counsel for the parties. This appeal by the appellant-Insurance Company is directed against the judgment/award dated 30.3.2012, passed by the 4th Motor Accident Claims Tribunal, Baripada, in M.A.C. Case No. 178/79 of 2011-08, awarding an amount of Rs. 14,34,425/- as compensation, along with interest @ 6% per annum, from 20.11.2010, till payment.

2. Learned counsel for the appellant-Insurance Company submits that as the F.I.R. was filed against an unknown vehicle, learned Tribunal erred in holding that the driver of the offending motorcycle No. OR-11-D/7521 was rash and negligent in causing the accident and accordingly saddling the liability on the present appellant, as the insurer of the motorcycle. In this regard, it is submitted that as the offending motorcycle was seized by the police after two month of the alleged accident, on being produced by the owner, the same creates a doubt with regard to the genuineness of the involvement of the said motorcycle in the alleged accident.

3. It is further submitted that the assessment of the compensation amount is not proper and justified, inasmuch as no documentary evidence has been adduced to prove the employment of the deceased. It is also submitted that as the claimants had claimed Rs. 10 Lakhs, which was subsequently amendment to Rs. 12 Lakhs,

the amount awarded of Rs. 14,34,425/- is not proper and justified.

4. 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 such as F.I.R. and charge-sheet, in coming to hold that the driver of the offending motorcycle was rash and negligent in causing the accident.

5. As regard the assessment of the compensation amount, learned Tribunal has taken into consideration the salary certificate (Ext. 6), in coming to hold that the deceased was getting salary of Rs. 10,455/- per month. Taking the age of the deceased to be 40 years at the time of his accidental death, learned Tribunal has applied the multiplier of "15" to calculate the compensation amount. Learned Tribunal has deducted 1/4th towards personal expenses. Further, learned Tribunal has awarded Rs. 23,000/- towards general damages.

6. 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. 14,34,425/- is modified and reduced to Rs. 13,50,000/- (rupees Thirteen Lakhs Fifty Thousand), which is payable to the claimants along with interest @ 6% per annum from 20.11.2010. The impugned award is modified to the said extent.

7. The appellant-Insurance Company is directed to deposit the modified compensation amount of Rs. 13,50,000/- along with interest @ 6% per annum from 20.11.2010 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.

8. 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.

9. MACA is accordingly disposed of. Issue urgent certified copy as per rules.