
(2023) 07 OHC CK 0069
In the Orissa High Court
Case No : MACA No.667 Of 2014

Divisional Manager, National Insurance Co.Ltd

APPELLANT

Vs

K.Panama Reddy & Ors

RESPONDENT

Date of Decision : 10-07-2023

Acts Referred:

Citation : (2023) 07 OHC CK 0069

Hon'ble Judges : B. P. Routray, J

Bench : Single Bench

Advocate : P.K.Mahali, P.C.Panda, M.R.Pradhan

Final Decision : Dismissed

Judgement

B. P. Routray, J

1.The matter is taken up through Hybrid mode.

2. Heard Mr. Mahali, learned counsel for the Appellant, Mr. Panda, learned counsel for Respondent Nos. 1 to 5 and Mr. Pradhan, learned counsel for Respondent No.6.

3. Present appeal by the Insurer is directed against judgment dated 3rd February 2014 of 2nd MACT, Berhampur, Ganjam, in M.A.C. Case No.9 of 2006 (434/03-GDC), wherein compensation to the tune of Rs.4,60,000/- has been granted along with interest @6% per annum with effect from the date of filing of claim application on account of death of the deceased in the motor vehicular accident dated 1st May 2003.

4. Mr.Mahali submits that the offending vehicle i.e. Mini Truck bearing registration No.OR-07-B-09271 has been falsely implanted in the case though it was not involved in the accident. He further submits that the FIR was submitted without mentioning registration of any vehicle, but subsequently a complaint case was filed to include the offending vehicle in the accident.

5. Admittedly, I.C.C. Case No. 36 of 2003 corresponding to G.R. Case No. 163 of 2003 was filed before the Court of JMFC, Khallikote against the driver of the offending vehicle stating involvement of the vehicle in the accident. It was not objected by anyone nor did the Insurance Company adduce any evidence in support of their stand. It is the categorical evidence of P.W.2 & 3, who are the eyewitnesses, regarding involvement of the offending vehicle in the accident. This part of evidence of P.W.2 & 3 has not been sufficiently rebutted in their cross-examination. As such no point is seen in favour of the contention of Mr.Mahali to disbelieve involvement of the offending vehicle in the accident. As such his contentions are rejected.

6. Coming to the question of quantum compensation, I do not see any merit to interfere with the same. What is submitted by Mr.Mahali to count the income of the deceased at the minimum wage rate has no force since it is the categorical case of the Claimants that deceased was a businessman. Moreover, the Tribunal did not add any future prospect to the income of the deceased.

7. In the result, the appeal is dismissed and the Insurer-Appellant is directed to deposit entire compensation amount along with interest as directed by the Tribunal within a period of two months from today; where-after the same shall be disbursed in favour of the claimants on such terms and proportion to be fixed by the Tribunal.

8. The statutory deposit made by the Appellant with accrued interest thereon shall be refunded to him on proper application and on production of proof of deposit of the award amount before the learned Tribunal.

9. Urgent certified copy of this order be granted on proper application.

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