
(2003) 05 OHC CK 0026
In the Orissa High Court
Case No : A.H.O. No. 85 of 2000

Divisional Manager, The New India Assurance Co. Ltd.	APPELLANT
Vs	
Udayanath Sahu and Others	RESPONDENT

Date of Decision : 14-05-2003

Acts Referred:

Citation : (2003) 2 OLR 128

Hon'ble Judges : P.K. Misra, J;B. Panigrahi, J

Bench : Division Bench

Advocate : S.K. Sarangi, for the Appellant; B.N. Rath and L. Samantara for R. 1 to 6, for the Respondent

Judgement

B. Panigrahi, J.—This Letters Patent appeal is directed against the judgment passed by the learned Single Judge of this Court in Misc. Appeal No. 149 of 1998 dismissing the appeal filed by the Insurance Company on 9.3.2000.

2. The respondent Nos. 1 to 6 as the legal heirs of the deceased Jagnyanarayan Samantara filed M.A.C, Case No. 505/ 96 (938/96) before the learned M.A.C.T., Berhampur for awarding compensation on account of the death of Jagnyanarayan Samantara. Respondent Nos. 1 and 2 are the parents whereas respondent Nos. 3 to 6 are the wife and children of the deceased. The M.A.C.T. on thorough scrutiny of the evidence placed before it. passed an award for Rs. 3,32,000/- along with interest at the rate of 9% from the date of application till payment i.e. 28.2.1996.

3. The Insurance Company being aggrieved by the award passed by the Tribunal challenged it before the learned Single Judge of this Court in M.A. No. 149 of 1998 and the appeal did not yield any other result except affirmance of the award. Being aggrieved by the findings of the learned Single Judge, this Letters Patent Appeal has been filed by the Insurance Company.

4. Mr. S. K. Sarangi, learned counsel appearing for the appellant has strenuously urged that the learned Tribunal has committed gross illegalities in over-looking the number of multiplier, which ought to have been adopted in this case. It has

been further contended that the deceased did not possess valid driving licence. It has been further contended that while calculating compensation, there has been some arithmetical mistake crept in the order. The Tribunal should have fixed the award at Rs. 3.29,000/- instead, it has passed the award for Rs. 3.32.000/-

5. While considering the contention raised by the appellant, we notice that no permission from the Tribunal was taken with regard to calculation of the amount, which does not appear to be substantial question to be adjudicated either before the learned Single Judge or here. Accordingly, whatever number of multiplier adopted by the Tribunal shall not be altered in this A.H.O. nor would be permissible for us to go into that question once again. Since the offending truck was covered by a comprehensive policy, it is immaterial whether the deceased had a driving licence or not. Thus, the matter is not required to be discussed at length. Law is well settled on this point. In so far as calculation of the amount is concerned, both the parties agree that it ought to be Rs. 3,29,000/- instead of Rs. 3, 32.000/-. Accordingly, the award which the appellant is liable to pay be fixed at Rs. 3.29,000/-. Out of the said amount, the appellant has already made statutory deposit of Rs. 25,000/- in this Court and subsequently the said amount has been withdrawn by the respondent Nos. 1 to 6.

6. In that view of the matter, the claimant-respondents shall only be entitled to Rs. 3,04,000/- along with interest accrued thereon at the rate of 9% from the date of application till payment. The differential interest of Rs. 25,000/- from the date of the application till payment should also be added to the amount-already directed to be payable by the Insurance Company. The aforesaid amount along with interest shall be deposited by the Insurance Company within four weeks. Upon such deposit before the Registrar of this Court, an amount to the tune of Rs. 50,000/- shall be deposited in the name of the respondents Nos. 1 and 2 for a period of five years, Rs. 30,000/- each in favour of respondent Nos. 4, 5 and 6 for a period of five years in any nationalised bank and an amount of Rs. 1,50,000/- along with interest shall be deposited in the name of the wife-respondent No. 3 in a nationalised bank and the balance amount be paid to respondent No. 3.

With the aforesaid direction, this A.H.O. is disposed of.

P.K. Misra, J.

7. I agree.