

(2021) 12 OHC CK 0170
In the Orissa High Court
Case No : MACA No. 1007 Of 2017

Minchi Sahu And Others

APPELLANT

Vs

Champakeswar Purohit And Others

RESPONDENT

Date of Decision : 24-12-2021

Acts Referred:

Citation : (2021) 12 OHC CK 0170

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

Bench : Single Bench

Advocate : Jagabandhu Sahu, Subrat Satpathy

Final Decision : Disposed Of

Judgement

B.P. Routray, J.

1. Heard Mr. J. Sahu, learned counsel for the claimants and Mr. S. Satpathy, learned counsel for the insurer.

2. Both the appeals being arise out of the same judgment dated 10th July, 2017 of the 1st MACT, Balangir in MAC No.92 of 2014, are heard analogously and disposed of by this common order.

3. MACA No.1007 of 2017 is filed by the claimants praying for enhancement of the compensation amount, whereas MACA No.927 of 2017 is by the insurer challenging the award.

4. In the impugned judgment, the learned Tribunal has granted compensation to the tune of Rs.11,11,000/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 29th September, 2014 on account of death of the deceased in a motor vehicular accident on 2nd August, 2014.

5 It is contended on behalf of the claimants that the learned Tribunal though has granted compensation taking the monthly income of the deceased at Rs.8000/-, but did not add any amount towards future prospects.

6. On the other hand it is contended by Mr. Satpathy, learned counsel appearing for the insurer that the involvement of the offending vehicle in the accident is doubtful and secondly, learned Tribunal has taken the income of the deceased at Rs.8000/- per month without material evidence.

7. Having heard both parties, in respect of the challenge by the insurer with regard to involvement of the offending vehicle in the accident, it is found from the impugned judgment that the Tribunal basing on the evidence of the eye witness (P.W.2) has concluded about negligence on the part of the driver of the offending vehicle. The case of the claimants was that while the deceased was going in a bicycle, the offending vehicle which is a Bolero bearing registration No.OR 17 J 7591 being driven in a rash and negligent manner dashed against him resulting his death. Taking note of categorical evidence of P.W.2, the eye witness and submission of charge-sheet against the driver by police, no merit is seen in the contention of the insurer to discard the Bolero from the accident.

8. Next coming to examine the contention of the respective parties with regard to quantum of compensation, it reveals that P.W.1 produced the certificate under Ext.6 showing monthly salary of the deceased at Rs.8000/-. It is the admitted fact that P.W.1 has stated in her evidence that the deceased was earning Rs.6000/- per month. It is also not disputed that Ext.6 is a document whose author was not examined. But P.W.1 who produced the said document supported the contents of the same in her oral evidence. However to see otherwise, the minimum wages prevailing during the year 2014 was Rs.150/- for un-skilled labourer, Rs.170/- for semi-skilled labourer, Rs.190/- for skilled labourer and Rs.205/- for high-skilled labourer per day. Considering such amount of minimum wages and the undisputed fact of employment of the deceased as a salesman in Gupta Grocery Shop, the appropriate amount would be at Rs.6000/- per month. As such, the monthly income of the deceased is fixed at Rs.6000/-. Adding future prospects to the extent of 25% taking the undisputed age of the deceased as 50 years, the amount comes to Rs.7500/-. By deducting 1/4th from the same towards personal expenses and applying the multiplier '13' thereby the total loss of dependency comes to $\text{Rs.}5,625/- \times 12 \times 13 = \text{Rs.}8,77,500/-$. Adding Rs.70,000/- towards conventional heads in terms of the decision rendered in the case National Insurance Company Ltd. v. Pranay Sethi and Others (2017) 16 SCC 680 the total amount comes to Rs.9,47,500/-.

9. Accordingly the insurer - Appellant in MACA No.927 of 2017 and Respondent No.2 in MACA No.1007 of 2017 is directed to deposit Rs. 9,47,500/- (nine lakh forty-seven thousand five hundred) along with 6% interest per annum from the date of filing of the claim application, i.e. 29th September, 2014 before the tribunal within a period of eight weeks from today; where-after the said amount be disbursed to the claimants in the proportion and terms to be decided by the Tribunal.

10. The statutory deposit made by the insurer in MACA No.927 of 2017 before this court along with accrued interest be refunded to the Appellant - insurer on

proper application and on production of proof of deposit of the awarded amount before the tribunal.

11. Both the appeals are disposed of.

12. An urgent certified copy of this order be issued as per rules.

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