(2023) 04 OHC CK 0014

In the Orissa High Court

Case No : MACA No.676 Of 2020

M/s.IFFCO TOKIO General Insurance Co. Ltd APPELLANT

Vs

Basanti Khara And Others RESPONDENT

Date of Decision : 03-04-2023

Acts Referred:

Citation : (2023) 04 OHC CK 0014

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

Bench : Single Bench

Advocate : J.R.Deo, S.B.Das

Final Decision : Disposed Of

Judgement

B. P. Routray, J

1.The matter is taken up through Hybrid mode.

2. Heard Mr.Deo, learned counsel for the Appellant-Insurer and Mr.Das, learned counsel for claimants-Respondent Nos.1 to 3.

3. Present appeal by the Insurer is directed against the judgment dated 18th February, 2020 of the District Judge cum M.A.C.T., Malkangiri, in M.A.C. No.04 of 2018, wherein compensation to the tune of Rs.42,48,600/- has been granted along with interest @6% per annum with effect from the date of filing of the claim application on account of death of the deceased in the motor vehicular accident on 29th December, 2017.

4. The main challenge is on the quantum of compensation. According to the Insurer, the deceased was aged about 44 years on the date of accident as per his service records and in this regard, copies of service book have been produced by way of additional evidence in I.A.No.538 of 2023. It is further submitted by Mr.Deo that tax component has not been deducted from the income of the deceased.

5. The deceased was serving as a Junior Assistant in the office of the Divisional Forest Officer, Kenduleave, Malkangiri and drawing gross salary of Rs.33,600/- per month at the time of his death. As per the copy of the service book, his death of birth is 10th May, 1973. As such, he is found 44 years and the applicable multiplier would be 14. Further, according to the prevalent income tax slab, the income tax component of Rs.7,660/- and the professional tax of Rs.2,500/- is liable to be deducted from the income. Taking Rs.33,600/- as monthly income and after deducting Rs.10,160/- towards tax component, the annual income comes to Rs.3,93,040/-. Adding future prospects to the extent of 30%, the annual loss of dependency income comes to Rs.5,10,952/-. Deducting 50% towards personal expenses, the annual loss of dependency is derived at Rs.2,55,476/-. So total loss of dependency comes to Rs.35,76,664/-. Adding Rs.30,000/- thereto towards loss of estate and funeral expenses, it becomes Rs.36,06,664/-, payable along with interest at the rate of 6% per annum.

6. In the result, the appeal is disposed of with a direction to the Appellant-Insurer to deposit the compensation amount of Rs.36,06,664/- (Thirty six lakhs six thousand six hundred sixty four) before the Tribunal along with interest @6% per annum from the date of filing of the claim application 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.

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

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

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