(2022) 09 OHC CK 0170

In the Orissa High Court

Case No : MACA No.1126 Of 2014

National Insurance Company Ltd APPELLANT

Vs

Anju Agarwal And Others RESPONDENT

Date of Decision : 20-09-2022

Acts Referred:

Citation : (2022) 09 OHC CK 0170

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

Bench : Single Bench

Advocate : J.R. Deo, G. Mishra, B.K. Rout

Final Decision : Disposed Of

Judgement

B. P. Routray, J

1. Heard Mr. J.R. Deo on behalf of Mr. G. Mishra, learned Senior Advocate for the Appellant-Insurance Company and Mr. B.K. Rout, learned counsel for the Respondent Nos.1 to 6-claimants.

2. Present appeal by the insurer is directed against the judgment dated 17.02.2014 of learned 3rd M.A.C.T., Rairangpur in M.A.C. No.33 of 2012 wherein compensation to the tune of Rs.47,82,490/- has been granted along with interest @6% per annum to the claimants from the date of filing of the claim application on account of death of the deceased in the motor vehicular accident dated 6.11.2012.

3. It is contended on behalf of the insurer that the Tribunal while taking average income of past three years of the deceased has forgotten to deduct the tax amount and secondly, 30% has been added towards future prospects instead of 25%.

4. Perusal of the impugned judgment reveals that learned Tribunal calculated the average income of the deceased at Rs.3,33,882/- and thereafter proceeded to determine the loss of dependency. Such assessment of the income is based on

three IT returns of the deceased for the assessment years 2010-11, 2011-12 and 2012-13. Thus considering the tax paid upon such incomes for those assessment years as indicated in Ext.8 series and taking average of the same, which comes to Rs.9,564/-, the amount of income determined is at Rs.3,24,318/- per annum. Adding 25% thereto towards future prospects and deducting 1/4th towards personal expenses, and further adding respective amounts towards consortium as well as general damages, the total compensation is determined at Rs.45,26,673/-.

5. In the result, the Insurance Company is directed to deposit the modified reduced compensation of Rs.45,26,673/- (rupees forty-five lakhs twenty-six thousand six hundred seventy-three) 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.

6. On deposit of the award amount before the learned Tribunal and filing of a receipt evidencing the deposit with a refund application before this Court, the statutory deposit made before this Court with accrued interest thereon shall be refunded to the Insurance Company.

7. With the aforesaid observations and directions, the appeal is disposed of.

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

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