(2026) 02 OHC CK 1724

In the Orissa High Court

Case No : MACA NO.205 Of 2023

Satya Narayan Agrawal & Others — APPELLANT

Vs

Santanu Kumar Badpanda & Another — RESPONDENT

Date of Decision : 13-02-2026

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 173

Citation : (2026) 02 OHC CK 1724

Hon'ble Judges : G. Satapathy, J

Bench : Single Bench

Advocate : P.K.Mishra, S.R.Pattnaik

Final Decision : Allowed

Judgement

G. Satapathy, J

1. The quantum of compensation as awarded to the claimants/appellants herein by the impugned judgment dated 14.12.2022 passed by learned 2nd Motor Accident Claims Tribunal, Northern Division(in short, “2nd MACT”) Sambalpur in MACA No. 04 of 2013 is under challenge in this appeal U/S.173 of Motor Vehicles Act, 1988 (in short, “the Act”).

2. Briefly stated, the appellants who are the claimants-cum-legal representative of one Sanjay Kumar Agarwal (hereinafter referred to as, “the deceased”) have filed an application U/S. 166 of the MV Act for compensation towards death of their sole bread earner-cum-deceased who on the fateful day on 24.11.2011 at about 6.20PM while returning from Bareipali, Sambalpur towards Remed side by riding his motor cycle bearing Regd. No. OR-15Q-5425 on NH-6, near Gopalpali Chowk in front of Hyundai show room, was suddenly dashed from behind by a bus bearing registration number OR-15R-5366 coming in rash and negligent manner with a high speed ultimately resulting in death of the deceased. The claimants have averred in their application for compensation that the deceased was earning Rs.95,000/- per month from his transport business and contributing

the same for the maintenance of his family, but due to his untimely death, the claimants have suffered financial setback. Accordingly, the claimants-appellants filed the application for compensation impleading the owner and insurer of the offending bus.

2.1. In response to the notice of the claim, the owner of the offending bus-cum-R-1 did not participate and was set ex-parte by order dated 24.04.2022, however, the insurer of the offending bus who is R-2 here contested the claim by filing written statement denying its liability, but the learned Tribunal accordingly allowed the contesting party to lead evidence and on closure of evidence led by the parties, the learned Tribunal upon analysis of the pleadings and evidence on record upon hearing the parties, passed the impugned award by directing the insurer-cum-R-2 to pay a sum of Rs.23,27,066/- to the appellants-claimants, together with 6% simple interest per annum w.e.f. the date of filing of application till actual realization, but being dissatisfied with the quantum, the appellants are before this Court in this appeal. It needs to be emphasized here that the R-2-cum-insurer has, however, satisfied the aforesaid award without disputing the same.

3. In the course of hearing of the appeal, Mr.Pradeep Kumar Mishra, learned counsel for the appellants disputes the quantum of compensation on the main ground of Tribunal erroneously taking the actual income of the deceased by deducting the amount of standard deduction in the Income Tax Return (in short, "ITR") while calculating the income of the deceased. Mr.Mishra accordingly has submitted that although the learned Tribunal has rightly taken the Income Tax assessment year 2011-12 for computing the compensation, but it has whimsically taken the income of the deceased at Rs.1,62,633/- without any rhyme and reason instead of correct one of Rs.2,55,923/- as per the IT return of the year 2011-12. Mr.Mishra accordingly prays to grant appropriate compensation to the appellants by enhancing the compensation amount.

3.1. On the other hand, Mr.Sabitra Ranjan Pattanaik, learned counsel for the R2-insurer, however, supporting the impugned award has submitted that there is no error in computing the compensation for the claimants and, thereby, the appeal being unmerited may kindly be dismissed.

4. On a careful consideration of the rival submissions, it emerges that the real dispute between the parties is the quantum of compensation and the manner of its computation. The factual aspect of age and death of the deceased in the accident has neither been disputed nor the award has been challenged by the insurer and it is, therefore, considered that the finding of the learned Tribunal with regard to death of the deceased in motor vehicular accident is not disputed together with his age. A careful scrutiny of the impugned judgment, the learned Tribunal has in fact rightly considered in Paragraph-13 that since the deceased died on 24.11.2011, his annual income for the assessment year 2011-12 is relevant for consideration for the purpose of computation of compensation amount. The assessment of income of the deceased through ITR returns for the

aforesaid year has been produced by the appellants-complainant under Ext. 12 series in which the income of the deceased for the assessment year 2011-12 has been taken erroneously by the learned Tribunal at Rs.1,62,633/-, since the Income Tax assessed on the income of the deceased for the assessment year 2011-12 reveals that the taxable income of the deceased at Rs.2,55,923/- and thereby, the income of the deceased less the tax payable would come around to Rs.2,47,971/- which is rounded off to Rs.2,47,000/-. Since the deceased was aged about 42 years which was not disputed and self-employed, adding 25% to his own income of the deceased as assessed above towards future prospect, it would come around Rs.2,47,000 +Rs.61,750/- (25% of Rs.2,47,000) =Rs.3,08,750/-and since the deceased was having four dependents, 1/4th of his income is to be deducted towards his personal and living expenses and thereby, his net contribution to his family would come around Rs.2,31,562/- and multiplying it with the multiplier 14 as applicable in this case, the loss of dependency of the claimants-appellants would come to Rs.32,41,868/-.In addition, the appellants are also entitled to further compensation under the head of non-pecuniary damages, such as loss of estate, funeral expense and consortium in view of the rulings of National Insurance Company Limited Vrs. Pranay Sethi and others; (2018) 69 OCR (SC) 1, the appellants are entitled to further compensation of Rs.70,000/- + 50% of Rs.70,000/-(increase of the aforesaid amount @ 10% for every three years)=Rs.1,05,000/-. Accordingly, the appellants are entitled to differential amount of compensation of Rs.33,46,868/- Rs.23,27,066/-= Rs.10,19,802/- together with interest @ 6% per annum.

5. In the result, the appeal stands allowed on contest, but in the circumstances, there is no order as to costs and consequently, the impugned judgment is modified to the extent indicated above with direction to R-2 to pay the differential amount of compensation of Rs.10,19,802/- together with 6% simple interest per annum w.e.f. the date of filing of application till actual realization within eight weeks hence and in case of deposit of the differential amount of compensation, the same shall be disbursed to the claimants-appellants proportionately in terms of the award passed by the learned Tribunal.

