(2022) 04 OHC CK 0014

In the Orissa High Court

Case No : MACA No.321 Of 2019

Sr. Divisional Manager, United India Insurance Co. Ltd	APPELLANT
Vs	
Ajaya Kumar Sahoo And Another	RESPONDENT

Date of Decision : 04-04-2022

Acts Referred:

Citation : (2022) 04 OHC CK 0014

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

Bench : Single Bench

Advocate : R. Ch. Sahoo, B. Mohanty

Final Decision : Dismissed

Judgement

B. P. Routray, J

1. Heard Mr. R. Ch. Sahoo (1), learned counsel for the Appellant-Insurance Company as well as Mr. B. Mohanty, learned counsel for the Respondent No.1-claimant.

2. Present appeal by the insurer is directed against the judgment dated 19.02.2019 of the learned 1st MACT, Dhenkanal in MAC Case No.204 of 2016 wherein compensation to the tune of Rs.18,83,550/- along with interest @7% per annum from the date of filing of the claim application, i.e.,17.10.2016 was granted by the learned Tribunal to the claimant on account of injury sustained by him in a motor vehicular accident dated 02.06.2016.

3. Learned counsel for the Appellant in course of hearing mainly challenges the quantum of compensation. It is submitted that the income of the injured-claimant has been taken on higher side to determine the loss of future income. As per the Appellant, the income of the injured cannot be Rs.3 lakhs per annum and it should be reduced to Rs.2,63,760/- per annum taking the average of the income shown in the IT returns under Exts.11 & 12.

4. It is seen that the learned Tribunal for the purpose of determination of income

of the claimant has considered the IT returns filed on behalf of the claimant for the Assessment Years 2014-15 and 2015-16 under Exts.11 & 12 in addition to the oral evidence of the claimant. The documents under Exts.11 & 12 are not disputed by the insurer. The claimant to further substantiate his income has also furnished the certificate relating to ownership of different trucks and tippers filed Exts.13, 14, 15 & 16. Upon scrutiny of all those documents, no illegality is seen with regard to fixation of the amount of income of the claimant by learned Tribunal.

5. The extent of disability of the claimant up-to 50% is not disputed by the Appellant. The learned Tribunal has approached in a logical way to determine loss of future income at 30% and counted it to Rs.11,70,000/-. This is found without any fault. Similarly the amount granted under the head viz. cost of medicines and medical expenses to the tune of Rs.5,83,547/- is found supported with the medical documents of expenses under Ext.17 to 20. Keeping in view the undisputed nature of injury and the resultant suffering of permanent disability, the expenses so incurred on the part of the injured as calculated by the learned Tribunal does not require any interference. The amounts granted under other heads, i.e. Rs.30,000/- for pain and suffering, Rs.50,000/- each for hospitalization charges and loss of actual income during the period of treatment also do not need any interference.

6. In the result, the appeal seems without any merit and is accordingly dismissed.

7. The Appellant-Insurance Company is directed to deposit the entire award amount along with interest before the Tribunal within a period of eight weeks from today.

8. 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 Appellant-Insurance Company.

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