

IN THE HIGH COURT OF ORISSA AT CUTTACK

AHO No.01 of 1999

The Divisional Manager, New India Appellant
Assurance Co. Ltd., Bhubaneswar

Mr. B. K. Mohanty, Advocate

-versus-

Sauri Das and others Respondents
None

CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAİK

ORDER
21.03.2022

Order No.

03. 1. This appeal by the New India Assurance Company Limited is directed against the judgment dated 11th December, 1998 passed by the learned Single Judge dismissing Miscellaneous Appeal No.459 of 1995 filed by the Appellant.
2. By the impugned judgment, learned Single Judge upheld the Award dated 5th August, 1995 passed by the Motor Accident Claims Tribunal, Bhubaneswar (MACT) in MACT Case No.2456 of 1992 awarding a sum of Rs.3 lakhs to the Claimants- Respondents 1, 2 and 3.
3. At the relevant time when the aforementioned claim was filed, Respondent Nos.1 and 2 were the parents of the deceased Narayan Das and Respondent No.3 was his minor dependant sister. The deceased died in a fatal road accident when a Tractor along with a Trolley came from the rear and dashed against the cycle on which

the deceased was being taken by his associate at around 8.30 AM on 19th November, 1992. The rider of the cycle also received some injuries. At the time of his death, the deceased was 25 year-old. His monthly income from the coconut business was Rs.2,000/- of which he was contributing Rs.1,500/- towards the maintenance of his dependent parents and unmarried sister. The claim petition was filed claiming Rs.4,70,000/- as compensation.

4. The MACT found that the accident had occurred due to the rash and negligent driving of the Tractor driver. The monthly earning of the deceased and his contribution to the family were all proved before the MACT. Applying the multiplier in the 2nd Schedule to the Motor Vehicles Act, 1988 (MV Act), the MACT awarded Rs.3 lakhs as compensation.

5. Before the learned Single Judge, the present Appellant i.e. the Insurance Company tried to argue that since the accident occurred in 1992, whereas the Schedule in terms of Section 163-A of the MV Act was introduced in 1994. Therefore, the multiplier set out in the Schedule will not be applicable. However, following the decision of the Supreme Court of India in *Shankarayya v. United India Insurance Co. Ltd. (1998) 3 SCC 140*, the learned Single Judge held that the Insurance Company could not raise any challenge to the quantum awarded or on the question of negligence of the driver of the Tractor and Trolley. In any event, neither on the question of negligence nor as regards the quantum of compensation, the learned Single Judge found any ground to interfere.

6. In the present appeal, it is again sought to be contended that because of the accident took place in 19th November 1992, the Schedule to the MV Act will not apply. By the time the MACT decided the case, the Schedule had already come into play. The MV Act being a statute intended to benefit accident victims, the Schedule thereto ought to be applied in pending cases of accident victims even if the accident occurred at a time when the Schedule was not in force. Consequently, this Court finds no merit in the contention regarding applicability of the Schedule to the MV Act.

7. For the death of a 25 year-old person, compensation of Rs.3 lakhs, particularly when the negligence of the driver of the accident causing vehicle is proved, can hardly be said to be excessive. There are no grounds whatsoever made out for interference with the impugned judgment of the learned Single Judge.

8. The appeal is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

M. Panda