

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No. 3 of 2020

***I.C.I.C.I. Lombard General Insurance
Company Ltd.***

.... ***Appellant***
Mr.A.A.Khan, Advocate

-versus-

Ambika Prasad Dash and others ***Respondents***
Mr.P.K.Mishra, Advocate for Respondent Nos.1 to 3

**CORAM:
JUSTICE B. P. ROUTRAY**

**ORDER
28.02.2022**

Order No.

4.

1. Heard Mr.Khan, learned counsel for the Appellant and Mr.Mishra, learned Advocate for Respondent Nos.1 to 3.

2. The present appeal by the Insurer is directed against the impugned judgment/award dated 22nd November, 2019 passed by the Commissioner for Employee's Compensation-cum-Divisional Labour Commissioner, Cuttack in E.C.Case No.1 D of 2010, wherein compensation to the tune of Rs.15,19,510/- has been paid to the claimants on account of death of the deceased in course of employment as a helper of the Truck bearing registration No.OR-02BP-1055(Tipper).

3. It is submitted by the Appellant-Insurer that the deceased who was an employee in respect of a tipper died due to fall from the motorcycle and the learned Commissioner has failed to appreciate the same.

4. Upon perusal of the impugned judgment, it reveals that the Commissioner has discarded such contention of the Insurer based on the admission of the owner and in absence of sufficient material.

5. However, in course of hearing, a reduced compensation of Rs.3,75,000/- (Three lakhs seventy five thousand) consolidated is proposed to the parties. The same is agreed by Mr.Mishra, learned counsel for the claimants-Respondents 1 to 3. Mr.Khan, learned counsel for the Insurer leaves it to the discretion of the Court. Accordingly, the amount is reduced to the above extent.

6. Since the entire award amount has been deposited before the Commissioner for Employee's Compensation-cum-Divisional Labour Commissioner, Cuttack, the Commissioner is directed to disburse the modified consolidated amount of Rs.3,75,000/- (Three lakhs seventy five thousand) with proportionate accrued interest thereof in favour of the claimants within a period of two months from today. The balance amount with proportionate accrued interest thereof shall be refunded to the Appellant. The impugned award is modified to the above extent.

7. The appeal is accordingly disposed of.

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

(B.P. Routray)
Judge