

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No.4342 of 2007

*Divisional Manager, New India
Assurance Co. Ltd.*

....

Petitioner(s)

Mr.S.S.Rao, Advocate

-versus-

Basudev Mallik & Ors.

....

Opp.Party(s)

Mr.D,N,Patnaik, Adv.

CORAM:

JUSTICE BISWANATH RATH

ORDER

02.12.2022

Order No.

7.

1. Heard Mr.Rao, learned counsel appearing for the petitioner-New India Assurance Co .Ltd. Even after paper publication notice to the party likely to be affected, nobody is appearing. Earlier set of counsel appearing for such party also not attending the Court proceeding.

2. Mr.Rao, learned counsel for the petitioner bringing to the reference of disposal of W.P.(C).No. 45 of 2002 read together with an affidavit vide Anenxure-1 between the parties endorsing outside court settlement, submits that an application being filed before the Commissioner, Workmen's Compensation to record the compromise between the parties and suitably modifying the order involved, such application has been rejected vide impugned order. For the rejection of such request, there has been asking to the petitioner to deposit the balance amount with appropriate interest.

3. Considering the submission of Mr.Rao, learned counsel for the petitioner through the pleading and the document at Anenxure-1, it becomes clear that there has been undertaking of an exercise between the parties involved in outside court settlement and the settled the amount appears to be already paid to the beneficiary, who has even sworn affidavit admitting the compromise developed. There is no

contest to the action initiated by the Insurance Company through the writ petition even after service of notice by paper publication.

4. Considering the submission of Mr.Rao, learned counsel appearing for the petitioner, this Court even though finds the Commissioner, Workmen's became functuous officio and is only responsible to ensure the payment, however, keeping in view the subsequent development, observes in the event there is settlement and settled amount is already paid to the claimant, who is undisputedly not cooperating this Court proceeding there may not be insisting on the direction of the Commissioner at page 19 of the brief through Annexue-

5. From the direction, this Court also finds there is recording of payment of compromise amount of Rs.2,35,200/- in terms of such compromise before the Commissioner. In the event the claimant attend the Commissioner's Office, a sum of Rs.2,35,200/- (Rupees two lakhs thirty-five thousand two hundred) only along with interest accrued thereon in the meantime be made over to the claimant involved herein if not released in the meantime. The order herein may not create a precedent.

6. The writ petition stands disposed of.

(Biswanath Rath)
Judge