

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.18 of 2022

***Legal Manager,
M/s.IFFCO TOKIO G.I.CO. LTD.***

.... Appellant

Mr.A.A.Khan, Advocate

-versus-

Umesh Chandra Routray and another

Respondents

Mr.B.Mohanty, Advocate

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

**ORDER
25.8.2022**

Order No.

5.

1. The matter is taken up through Hybrid mode.
2. Heard Mr.Khan, learned counsel for the Appellant and Mr.Mohanty, learned counsel for Respondent No.1.
3. Present appeal by the Insurer is directed against impugned judgment/award dated 7th December, 2021 passed by the Commissioner for Employee's Compensation-Cum-Joint Labour Commissioner, Cuttack in E.C.Case No.37-D/2014, wherein compensation to the tune of Rs.15,68,901/- has been granted including interest on account of injury sustained by the injured-claimant arising out of and in course of his employment as driver of the Auto Rickshaw bearing Registration No.OR-04L-2907.

4. It is contended by Mr.Khan, learned counsel for the Appellant that though the date of accident is 5th October, 2010 but the claim application was presented on 22nd February, 2014, which is beyond the period of prescribed limitation and further the injured-claimant renewed his driving license on 30th September, 2013.

5. Mr.Mohanty, learned counsel for injured-claimant submits in his reply that such ground of limitation was never raised before the Commissioner and secondly, the injured did not apply for renewal of his driving license but its renewal was automatic keeping in view the Circular of the Ministry of Road and Transport dated 16th April, 2018.

6. Perusal of the L.C.R. reveals that the claim application was registered on 4th March, 2014 by the Commissioner, whereas the claim application is dated 22nd February, 2014. It is not understood, if the claim application was presented on 22nd February, 2014 how the same was registered on 4th March, 2014. However, the fact remains that the claim application was presented on 22nd February, 2014 as reveals from the date mentioned in the verification portion. It is further seen from the copy of the L.C.R. that after 4th March, 2014, the record was next put up on 1st August, 2019. This raises suspicion in the mind of

the Court with regard to the conduct of the claimant as well as the learned Commissioner in dealing with claim applications.

7. Be that as it may, the admitted fact remains that when the date of accident is 5th October 2010, the claim application was presented on 22nd February, 2014. Section 10 of the Employees Compensation Act prescribes that no claims for compensation shall be entertained unless the same is preferred within a period of two years of the accident including the case of death and the notice of accident is given as soon as practicable after the accident.

8. The instant case is a case of injury and the claim application has been preferred after more than three years four months without any petition for condonation of limitation. Thus, the claim application is clearly barred by limitation as prescribed in Section 10 of the Employees Compensation Act. But the Commissioner has failed to deal with the same and strangely enough did not answer the same. the reply given by the claimant that the said objection was not raised before the Commissioner is not convincing for the reason that a point of law can be raised at any stage of the proceeding. Therefore there is no harm in entertaining such an objection at this stage in appeal, particularly

noticing the conduct in dealing with the claim application before the Commissioner. Thus, in the opinion of this Court the application is not at all maintainable being barred by limitation.

9. In view of the discussions made above, no further discussion is required to be made with regard to renewal of the driving license.

10. In the result, it is held that the claim application is not maintainable being barred by limitation and the applicant is not entitled for any compensation. The appeal is accordingly allowed.

11. The amount deposited by the Appellant before the Commissioner for Employee's Compensation-Cum-Joint Labour Commissioner, Cuttack be refunded to it with accrued interest thereon within a period of two months from today.

(B.P. Routray)
Judge