

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.230 of 2018

Divisional Manager

M/s.New India Assurance Co. Ltd. Appellant
Mr.Nayan Bihari Das, Advocate

-versus-

Gobha Singh and another Respondents
Mr.K.C.Nayak, Advocate for Respondent No.1

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

**ORDER
03.03.2022**

Order No.

8.

1. Heard Mr.Das, learned counsel for the Appellant and Mr.Nayak, learned counsel for Respondent No.1.

2. The present appeal by the Insurer is directed against the impugned judgment/award dated 27th December, 2017 passed by the Commissioner for Employee's Compensation-cum-Deputy Labour Commissioner, Cuttack in W.C.Case No.234-D/2010, wherein compensation to the tune of Rs.3,69,642/- has been granted on account of death of the deceased in course of and arising out of his employment as a helper in the truck bearing registration no.OR-05E-5677.

3. The sole ground of challenge of the Insurer is that the death of the deceased is no way connected to the nature of employment and as such the claimant is not entitled to any compensation. But the Commissioner without discussing the nature of death of the deceased has directed for payment of compensation.

4. Having heard both parties and upon perusal of the impugned award, it reveals that the Commissioner while discussing under Issue Nos.1 & 2 has come to the opinion that the death of the deceased is relating to hard labour, stress and strain during the course of employment without answering to the contents of the postmortem report under Ext.7 and opinion of the doctor under Ext.3. This is questioned by the Appellant in the present appeal.

5. Perusal of the postmortem report under Ext.7. It reveals that the opinion was reserved pending chemical analysis of routine viscera. In the final opinion dated 24th March, 2010 under Ext.3, the doctor upon examination of viscera came to the opinion that, *“from the above mentioned findings, I am of the opinion that death of the deceased could have been due to complications of intake of some atypical/uncommon poisonous substance which has failed detection during the chemical analysis.”*

6. Here it is important to look into the observations of the doctor recorded in the same Ext.3. It is mentioned in the observation part that, as per the P.M. report no injury, either externally or internally, revealed on the dead body of the deceased and the stomach contents were consistent with ingestion of some toxic irritant substance. Further all the organs were found intact and congested and as per the chemical examination report, neither any insecticidal, alkaloidal or metallic poison could be detected in the preserved viscera. On a conjoint reading of the observations and the opinion expressed in Ext.3, nothing is seen to conclude that the deceased had taken any poisonous substance. Admittedly, the deceased died in course of discharge of his duty while coming in the vehicle from Gudiakateni to Cuttack on a sultry summer day

i.e., on 28th June, 2008. So the contention of the Appellant in this regard is not proved on record.

7. Considering the circumstances of death and the specific opinion of the doctor that no poisons substance could be detected in the viscera during the chemical analysis, it can safely be concluded that the death of the deceased could be a result of stress, strain and hard labour as concluded by the learned Commission. Accordingly no merit is seen in the contention of the learned counsel for the Appellant to substantiate the appeal.

8. In view of the discussions made above, this Court does not find any merit to interfere with the impugned award. However, the penal interest as directed by the Commissioner is waived. The entire award amount deposited before the Commissioner be disbursed in favour of the claimant within two months from today along with accrued interest.

9. The appeal is accordingly disposed of.

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

(B.P. Routray)
Judge