

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.26 of 2022

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

Mr. S.K. Ghose, Advocate

-versus-

Ratnakar Das and another ***Respondents***
Mr. D. Pattanaik, Advocate for Respondent No.1

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

**ORDER
25.02.2022**

Order No.

01.

1. Heard Mr. S.K. Ghose, learned counsel for the Appellant-Insurance Company as well as Mr. D. Pattanaik, learned counsel for the claimant-Respondent No.1.

2. Present appeal by the insurer is directed against the judgment and award dated 8.11.202 passed in E.C. Case No.461-D/2016 by the Commissioner for Employee's Compensation-cum-Joint Labour Commissioner, Cuttack wherein compensation to the tune of Rs.8,74,804/- has been granted to the claimant-Respondent No.1 on account of injury sustained by him in course of and arising out of the employment as a helper in the Truck bearing Registration No.OR-14-P-3938.

3. It is submitted on behalf of the Appellant that the learned Commissioner without any valid certificate of disability has assessed disability of the claimant to the extent of 50% and loss

of earning capacity of 75% based on the assessment of P.W.2, who is not an authorized person to calculate the disability.

4. In course of hearing, a reduced compensation of Rs.4,60,000/- (Rupees Four Lakhs Sixty Thousand) consolidated is proposed to the parties. Mr. D. Pattanaik, learned counsel for the claimant-Respondent No.1 agrees to the same and Mr. S.K. Ghose, learned counsel for Appellant-Insurance Company leaves it to the discretion of the Court. The compensation amount is accordingly fixed to that extent.

5. Since the entire award amount has been deposited before the learned Commissioner, out of the said amount, a sum of Rs.4,60,000/- along with proportionate accrued interest be disbursed in favour of the claimant-Respondent No.1 within a period of eight weeks from today and the balance amount along with proportionate accrued interest thereon shall be refunded to the Appellant-Insurance Company within the same period on proper application.

6. With aforesaid modification of the award, the FAO is disposed of.

7. An urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge