

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.32 of 2022

***The Manager (Legal),
M/s.Bajaj Allianz GIC Ltd.***

.... Appellant

Mr.A.A.Khan, Advocate

-versus-

Buduni Singh and another

.... Respondents

Mr.B.N.Rath, Advocate for Respondent Nos.1 to 9

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

**ORDER
4.8.2022**

Order No.

1. The matter is taken up through Hybrid mode.
2. Heard Mr.Khan, learned counsel for the Appellant and Mr.Rath, learned Advocate for Respondent Nos.1 to 9.
3. Present appeal by the Insurer is directed against impugned judgment/award dated 3rd December, 2021 passed by the Commissioner for Employee's Compensation-Cum-Joint Labour Commissioner, Cuttack in E.C.Case No.132-D/2015, wherein compensation to the tune of Rs.13,65,146/- has been granted on account of death of the deceased, who was served as a labourer in the offending tractor with trolley bearing Registration No.OD-05B-9857 and OD-05B-9858.
4. The main challenge of the Insurer is that through the offending tractor was registered in the name of Sanjaya Khatua (Respondent No.10, but the deceased was employed by Sanjaya

Kumar Rout (Respondent No.11). At the same time it is admitted that as per case of the claimant, the offending tractor was sold by its registered owner Sanjay Khatua to Sanjaya Kumar Rout much prior to the date of accident, but the same has not been reflected in registration certificate of the vehicle.

5. Upon hearing Mr.Rath, learned counsel for the claimants-Respondents and considering the definition of owner as prescribed in Section 2 (30) of the M.V.Act, the contention raised by the Insurer that the deceased was not employed by its registered owner is found inconsequential since the fact of sale of the offending vehicle to Sanjaya Kumar Rout is not disputed, who was admittedly in possession of the same on the date of accident.. As per the definition of the owner, he is the person who is in possession of the vehicle. So it is not correct to say that no employee and employer relationship was there.

6. So far as the quantum of compensation is concerned, considering the grounds of challenges advanced, a reduced compensation of Rs.7,00,000/-(Seven lakhs) consolidated is proposed to the parties in course of hearing. The same is agreed by Mr.Rath, learned counsel for the claimants-Respondents. Mr.Khan, learned counsel for the Insurer-Appellant leaves it to the discretion of the Court. Accordingly, the amount is reduced to said extent.

7. Since the entire award amount has been deposited before the Commissioner for Employee's Compensation-Cum-Joint Labour Commissioner, Cuttack, the Commissioner is

directed to disburse the modified consolidated amount of Rs.7,00,000/- (seven lakhs) with proportionate interest accrued 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 Insurer-Appellant.

8. The appeal is accordingly disposed of.

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

(*B.P. Routray*)
Judge

C.R.Biswal

