

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**FAO No.33 of 2022**

***New India Assurance Co. Ltd.*** ..... ***Appellant***

Mr. P.K. Panda, Advocate

*-versus-*

***Bhagini Swain and others*** ..... ***Respondents***

Mr. P.K. Mishra, Advocate for Respondent Nos.1 to 4

**CORAM:**

**JUSTICE B. P. ROUTRAY**

**ORDER**  
**03.03.2022**

**Order No.**

**I.A. No.69 of 2022**

01.

1. In view of the Office note, the I.A. is disposed of.

**FAO No.33 of 2022**

2. Issue notice to the Respondents on the question of admission.

3. Since Mr. P.K. Mishra, learned counsel, has already entered appearance by filing vakalatnama on 24.2.2022, no notice need be served to the Respondents.

4. On the request of the parties, the matter is taken up for final hearing.

5. Heard Mr. P.K. Panda, learned counsel for the Appellant-Insurance Company as well as Mr. P.K. Mishra, learned counsel for the claimants-Respondent Nos.1 to 4.

6. Present appeal by the insurer is directed against the judgment and award dated 10.11.2021 passed in E.C. Case No.25-D/2018

by the Commissioner for Employee's Compensation—cum—Divisional Labour Commissioner, Cuttack wherein compensation to the tune of Rs.9,20,448/- has been granted to the claimants-Respondent Nos.1 to 4 on account of death of the deceased in course of and arising out of the employment as a driver in the Truck bearing Registration No.OR-23-B-5288.

7. It is submitted on behalf of the Appellant that the learned Commissioner has committed error in accepting monthly wage of the deceased at Rs.8000/- which as per the Appellant should not exceed Rs.7,605/-.

8. In course of hearing, a reduced compensation of Rs.6,10,000/- (Rupees Six Lakhs Ten Thousand) consolidated is proposed to the parties. Mr. P.K. Mishra, learned counsel for the claimants-Respondent Nos.1 to 4 agrees to the same and Mr. P.K. Panda, learned counsel for Appellant-Insurance Company leaves it to the discretion of the Court. The compensation amount is accordingly fixed to that extent.

9. Since the entire award amount has been deposited before the learned Commissioner, out of the said amount, a sum of Rs.6,10,000/- along with proportionate accrued interest be disbursed in favour of the claimants-Respondent Nos.1 to 4 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.

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

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

**( B.P. Routray )**  
**Judge**

B.K. Barik

