

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO NO.38 OF 2022

From the Judgment/Order dated 30.11.2021 passed by the learned Commissioner for Employees' Compensation –cum- Labour Commissioner, Cuttack in E.C. Case No.57-D/2019.

**The New India Assurance
Co. Ltd.**

:::

Appellant

-:: VERSUS ::-

Prasanta Swain & Anr.

:::

Respondents

**Appeared in this case by Video Conferencing Mode / Hybrid
Mode.**

For Appellant

::: Mr. M. Sinha, Advocate
(for Appellant)

For Respondent

::: Mr. B.N. Rath, Advocate
(for Claimants-Respondents)

PRESENT :

THE HON'BLE MR. JUSTICE B.P.SATAPATHY

Date of Hearing- 12.07.2022:: Date of Order- 20.07.2022

B.P.Satapathy, J. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. M. Sinha, learned counsel appearing for the Appellant-Company and Mr. B.N. Rath, learned counsel appearing for the Claimants-Respondents.

3. This appeal has been filed by the Appellant-Company challenging the award passed by the learned Commissioner for Employee's Compensation Act – cum- Labour Commissioner, Cuttack in E.C. Case No.57-D/2019.

4. Mr. Sinha, learned counsel for the Appellant-Company submitted that learned Tribunal without proper appreciation of the claim raised by the Claimants and the objections raised by the Appellant-Company held the Appellant entitled to get compensation amount of Rs.6,90,370/- (Rs. Six lakhs ninety thousand three hundred seventy) and interest of Rs.2,17,419/- (Rs. Two lakh seventeen thousand four hundred nineteen) in total Rs. 9,7,489/- (Rs. Nine lakh seven thousand four hundred eighty nine).

5. Mr. Sinha, learned counsel for the Appellant submitted that learned Tribunal while assessing the aforesaid compensation never take into consider the petition filed by the Appellant-Company to refer the injured to medical Board in order to assess his injury and the disability. It is accordingly submitted that since the said prayer was never considered by the learned Commissioner, the compensation award in favour of the Claimants is illegal and needs interference of this Court.

6. Mr. Rath, learned counsel appearing for the Claimants-Respondents on the other hand submitted that no illegality has been committed by the learned Commissioner and the compensation has been rightly assessed.

7. Heard learned counsel for the Parties. Perused the materials available on record. This Court after going through the same when came to a finding that the Claimant-Respondents will be entitled

to get compensation amount of Rs. 6,40,000/- (Rs. Six lakh forty thousand) consolidated. Mr. Rath, learned counsel appearing for the Claimants-Respondents supported the said view of this Court. Mr. Sinha left the same to the discretion of this Court.

8. In view of such stand taken by the learned counsel appearing for the Parties, this Court while interfering with the impugned Judgment held the Claimants-Respondents will be entitled to get compensation amount of Rs.6,40,000/- (Rs. Six lakhs forty thousand) consolidated. Since it is submitted that the entire compensation has been deposited by the Appellant before the learned Commission, learned Commissioner is directed to release a sum of Rs.6,40,000/- (Rs. Six lakh fort thousand) in favour of the Claimants-Respondents. Learned Tribunal is further directed to refund the residue amount along with interest, if any in favour of the Appellant-Company. The entire exercise shall be completed within a period of one (1) month from the date of receipt of this order.

9. The appeal is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
The 20th July, 2022/Sneha