

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.311 of 2020

The Divisional Manager, M/s.National Insurance Co. Ltd. ***Appellant***

Mr. B.N. Udgata, Advocate

-versus-

Basanta Kumar Swain and others ***Respondents***

Mr. B.N. Samantaray, Advocate for Respondent Nos.1 & 2

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

**ORDER
12.01.2022**

Order No.

08.

1. This matter is taken up through video conferencing.
2. Heard Mr. B.N. Udgata, learned counsel for the Appellant-Insurance Company as well as Mr. B.N. Samantaray, learned counsel for the claimants-Respondent Nos.1 & 2.
3. The present appeal filed by the insurer is directed against the judgment and award dated 3.7.2019 passed in E.C. Case No. 313-D/2012 by the Commissioner for Employee's Compensation-cum-Divisional Labour Commissioner, Cuttack.
4. In the impugned award, learned Commissioner has directed for payment of compensation to the tune of Rs.16,34,155/- on account of death of the deceased in course of his employment.

5. The case of the claimants is that the deceased while working as a Driver in a Truck bearing Registration No.ORY-6126 and proceeding on 06.03.2012 from FCI towards Champeswar, the vehicle was capsized resulting his death.

6. It is submitted on behalf of the Appellant that the learned Commissioner taking the monthly income of the deceased on a higher side at Rs.8,000/- has directed for payment of compensation to the aforesaid tune. It is further submitted that no evidence has been adduced with regard to income of the deceased and as such his income should not exceed Rs.6,500/- keeping in view the rate of minimum wages.

7. Upon hearing Mr. B.N. Samantaray, learned counsel for the claimants-Respondent Nos.1 & 2 and without getting into further dispute regarding monthly remuneration and the details of computation, the amount of compensation is reduced to Rs.11,00,000/- (rupees eleven lakhs) consolidated as agreed by the counsel for the claimants.

8. Accordingly, the award amount is modified to the above extent and the Appellant-Insurance Company is directed to pay consolidated amount of compensation of Rs.11,00,000/- (rupees eleven lakhs) to the claimants-Respondent Nos.1 & 2.

9. Since the entire award amount has been deposited before the learned Commissioner, out of the said amount, a sum of Rs.11,00,000/- along with proportionate accrued interest be disbursed in favour of the claimants-Respondent Nos.1 & 2

within a period of eight weeks from today and the balance amount along with accrued interest thereon shall be refunded to the Appellant-Insurance Company within the same period on proper application.

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

11. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021 and Court's Office Order circulated vide Memo No.514, dated 7th January, 2022.

(*B.P. Routray*)
Judge