

IN THE HIGH COURT OF ORISSA AT CUTTACK
FAO No.471 of 2020

New India Assurance Co. Ltd. *Appellant*
Mr. B.K. Mohanty, Advocate

-versus-

Snehalata Pradhan and another *Respondents*
Mr. K.K. Das, Advocate for Respondent No.1
Mr.P.K. Behera, Advocate for Respondent No.2

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
23.08.2022

Order No.

13.

1. Heard Mr. B.K. Mohanty, learned counsel for the Appellant-Insurance Company, Mr. K.K. Das, learned counsel for Respondent No.1-claimant and Mr. P.K. Behera, learned counsel for the Respondent No.2-owner.

2. Present appeal by the insurer is directed against the judgment and award dated 18.01.2020 passed in E.C. Case No.193-D/2017 by the Commissioner for Employee's Compensation-cum-Divisional Labour Commissioner, Cuttack wherein compensation to the tune of Rs.9,13,589/- including interest has been granted to the claimant-Respondent No.1 on account of death of the deceased in course of and arising out of the employment as the helper of Truck bearing Registration No.OR-09-B-5994.

3. The main contention of the Appellant to challenge the award is that the deceased-workman was admitted in hospital on 4.8.2016 though the date of accident was on 5.8.2016 and therefore, the death of the deceased is not arising out of any accident in course of his employment.

4. The claimant is the mother of the deceased-workman, who allegedly died arising out of and in course of his employment as a helper of Truck bearing Registration No.OR-09-B-5994. Consequent to the death of the deceased, Mangalabag P.S. U.D. Case No.1152/2016 was registered. Upon examination of the contention raised by the Appellant that the deceased was admitted to the hospital vide OPD Ticket dated 4.8.2016 is not found to be a fact brought on record. Neither said OPD Ticket has been produced on record nor any witness is examined on that aspect. No such averment is made also in the WS of the insurer.

5. On the other hand, the owner coming contest the case has admitted the employment and the death of the deceased in the accident. Therefore in absence of any such material in support of the contention raised by the insurer, the same is rejected being without substance.

6. Perusal of the impugned award of the learned Commissioner does not reveal any valid ground to interfere with the same.

7. In the result, the appeal is dismissed.

8. Since the entire award amount has been deposited before the learned Commissioner, the same be disbursed to the claimant along with accrued interest within a period of eight weeks from today.

9. The LCR be sent back forthwith.

(B.P. Routray)
Judge