

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.10075 of 2019

Jr. Engineer/Manager, M/s, Petitioners
CESU Ltd., Electrical Section &
Ors.

-versus-

Commissioner For Employees Opposite Parties
Compensation & Ors.

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
15.12.2022

Order No

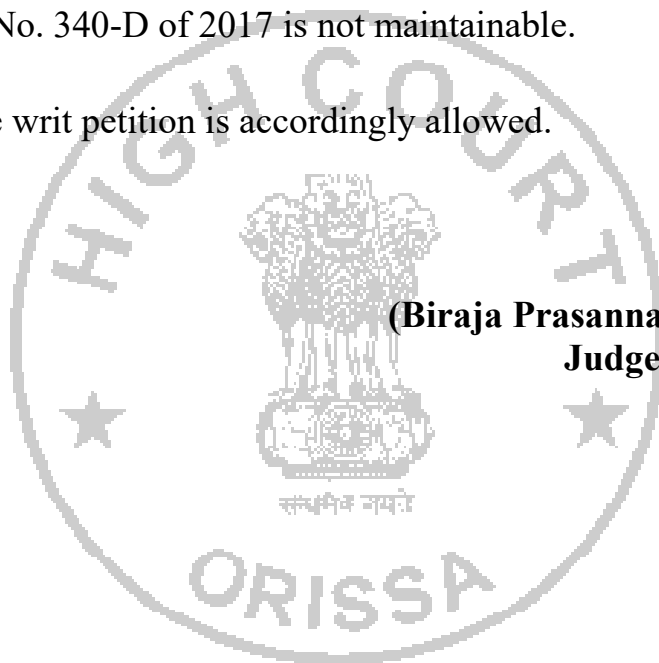
- 01.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. R.N. Acharya, learned counsel for the Petitioners. In spite of due service of notice, none had appeared on behalf of private O.P. Nos. 2 to 6 when the matter was called.
3. This writ petition has been filed challenging the order dtd.18.12.2017, wherein the learned Commissioner without giving opportunity to the Petitioners with regard to condonation of delay in filing the claim application admit the appeal and issued notice to the Opp. Parties/Petitioners herein.
4. It is contended that as provided under Sec. 10(1) of the Employees Compensation Act, 1923, no claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within two years of the occurrence of the

accident or, in case of death, within two years from the date of death, no proceeding is maintainable before the Commissioner.

5. Admittedly as found from the order dtd.18.12.2017 the deceased died on 26.07.2008 and the claim application was filed in the year 2017. Therefore, in view of the clear provision contained under Sec. 10(1) of the Employee's Compensation Act, 1923, the proceeding at the instance of the private Opp. Parties is not maintainable. Therefore, this Court while quashing the order dtd.18.12.2017 held that the proceeding initiated by the private Opp. Parties in E.C. Case No. 340-D of 2017 is not maintainable.

6. The writ petition is accordingly allowed.

Sneha



(Biraja Prasanna Satapathy)
Judge