

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.231 of 2017

Branch Manager, M/s. IFFCO- Appellant
Tokio G.I. Co. Ltd.

-versus-

Chitai Sukia @ Sitaram & Anr. Respondents

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
05.07.2022

Order No

- 11.** 1. This matter is taken up through Hybrid Mode.
2. Heard Mr. A.A. Khan, learned counsel appearing for the Appellant and Mr. K. Panigrahi, learned counsel appearing for the Claimant-Respondent No.1.
3. This appeal has been filed by the Appellant-Company challenging the judgment dated 12.05.2017 passed by the learned Commissioner-cum-Employees compensation and Assistant Labour Commission at Jeypore in E.C. Case No. 2/2016.
4. It is submitted that in respect of an accident which took place on 23.02.2006, the application for compensation was filed on 17.02.2016 that is near about 10 years of the said accident. Mr. Khan accordingly submitted that since the claim application was filed near about 10 years of the accident, the same should not have been entertained in view of the provision contained under Section 10 of the Employees Compensation Act, 1923. Mr. Khan brought to the notice of this Court that the provision contained under Section

10(1) of the Act for better appreciation, Section 10(1) of the Act was reproduced hereunder.

No claim for compensation shall be entertained by Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable and unless the claim is preferred 2 years of the accident or in case of death on the 2 years from the date of death.

Mr. Khan, accordingly submitted that since the claim application was admittedly filed beyond the period indicated under Section 10(1) of the Act, learned Commissioner should not have entertained the claim and passed the award vide the impugned Judgment dated 12.05.2017.

5. It is also submitted that the said stand though was taken by the Company before the learned Commissioner, but learned Commissioner without proper appreciation of the said provision of law entertained the claim and passed the impugned Judgment on 12.05.2017. Accordingly, it is submitted that the impugned order since has been filed in complete violation of the provision contained under Section 10(1) of the Act, the same is liable to be set-aside by this Court.

6. Mr. Panigrahi, learned counsel appearing for the Claimants-Respondents submitted that since this is a case of death, learned Commissioner entertained the petition even on the face of the provision contained under Section 10(1). But Mr. Panigrahi, fails to satisfy this Court as to whether there is any provision for entertaining such application beyond the period prescribed under Section 10(1) of the Act.

7. In view of the admitted position that no claim application is entertainable beyond the period of 2 years from the date of occurrence of the accident or 2 years from the date of death, this Court finds that the claim application should not have been entertained by the learned Commissioner. Accordingly, this Court has got no hesitation in quashing the judgment dated 12.05.2017 passed by the learned Commissioner in E.C. Case No. 2/2016. Since this Court is quashing the impugned Judgment, the amount deposited by the Appellant-Company before the learned Commissioner be refunded with accrued interest if any within a period of four weeks from the date of receipt of this order.

8. The appeal is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha

