

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.562 of 2020

The Manager, New India Assurance Appellant
Company Limited

Mr. S. Satapathy, Advocate

-versus-

Nayana Dei@Sahoo and others Respondents
Mr. K.C. Nayak, Advocate for Respondent Nos.1 to 3

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
19.04.2022

Order No.

06.

1. Heard Mr. S. Satapathy, learned counsel for the Appellant-Insurance Company and Mr. K.C. Nayak, learned counsel for the Respondent Nos.1 to 3-claimants.

2. Present appeal by the insurer is directed against the judgment and award dated 27.02.2020 passed in E.C. Case No.01-D/2014 by the Commissioner for Employee's Compensation-cum-Divisional Labour Commissioner, Cuttack wherein compensation to the tune of Rs.3,26,140/- has been granted to the claimants-Respondent Nos.1 to 3 on account of death of the deceased in course of and arising out of the employment while serving as a helper in the Truck bearing Registration No.OR-09-L-2547 TATA SX/1613.

3. The main contention raised on behalf of the Appellant is that the deceased is aged about 66 years as per the Voter Identity Card under Ext.C. But the learned Commissioner took his age as 47 years erroneously. It is thus prayed that the amount of

compensation is liable to be reduced as the applicable factor would be 99.37.

4. Upon hearing Mr. K.C. Nayak, learned counsel for the Respondent Nos.1 to 3-claimants and upon perusal of the copy of Voter Identity Card under Ext.C, a reduced compensation of Rs.2,00,000/- (Rupees Two Lakhs) consolidated is proposed to the parties in course of hearing. Mr. K.C. Nayak, learned counsel for the claimants-Respondent Nos.1 to 3 agrees to the same and Mr. S. Satapathy, learned counsel for Appellant-Insurance Company leaves it to the discretion of the Court. The compensation amount is accordingly fixed to that extent.

5. Since the entire award amount has been deposited before the learned Commissioner, out of the said amount, a sum of Rs.2,00,000/- along with proportionate accrued interest be disbursed in favour of the claimants-Respondent Nos.1 to 3 within a period of eight weeks from today and the balance amount along with proportionate accrued interest thereon shall be refunded to the Appellant-Insurance Company within the same period on proper application.

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

7. An urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge