

IN THE HIGH COURT OF ORISSA AT CUTTACK
FAO No.561 of 2019

***Junior Engineer / Junior Manager,
M/s.NESCO Ltd. and Others***

.... ***Appellants***

Mr. Ramanath Acharya, Advocate

-versus-

Kumudini Mohapatra and Others

.... ***Respondents***

Mr. R.K. Biswal, counsel for Respondent Nos.1-3

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
09.02.2022

Order No.

06. 1. Heard Mr. R. Acharya, learned counsel for the Appellants and Mr. R.K. Biswal, learned counsel for the claimant – Respondents.
2. Present appeal is by the employer NESCO Ltd., Jaleswar, Balasore challenging award dated 18th April, 2019 of the learned Commissioner for Employee's Compensation-cum-Divisional Labour Commissioner, Cuttack in E.C. Case No.209-D of 2015.
3. The case of the claimants is that the deceased was working as a Lineman for NESCO Ltd. under the authorized contractor, i.e. M/s. Mega India Electrical through the Sub-Contractor Sapan Patra, and died by electrocution while doing electrical work along with co-workers near Kasidiha.
4. Upon adjudication, learned Commissioner directed for payment of compensation in favour of the claimants to the tune of Rs.8,94,235/- by M/s. NESCO Ltd. The learned Commissioner has

further liberty for recovery of the amount from Opposite Party No.5, i.e. M/s. Mega India Electrical (Contractor).

5. It is submitted on behalf of the Appellant that, the deceased was not an employee of NESCO Ltd. but might have been engaged through the Contractor or Sub-Contractor, and the Appellant has no liability to pay the compensation on account of death of the deceased since he was neither an employee under the NESCO Ltd. nor any employer – employee relationship was there between them.

6. On the other hand Mr. Biswal, learned counsel for the claimant – Respondents supports the impugned award.

7. Having heard both parties, it reveals that the death of the deceased by electrocution while doing electric installation work on the relevant date is not disputed. Admittedly M/s. Mega India was a registered Electrical Contractor under NESCO Ltd. who was engaged for installation of electrical constructions by NESCO Ltd. It is also admitted that NESCO Ltd. had/has been receiving 6% as supervision charges of the total cost incurred for installation of the electrical work.

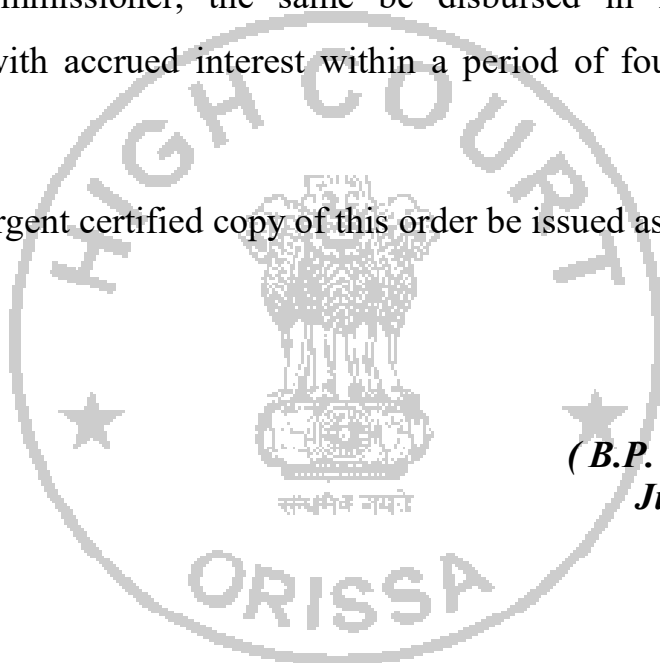
8. The evidences adduced by the claimants through P.W.1 and the documents, viz., the copy of the F.I.R. and other police papers in the UD PS Case No.88 of 2014 are clearly suggesting the death of the deceased due to electrocution while working at the electric site. The only question remains that, whether the death of the deceased during the work discharged by him is within the scope of employment under NESCO Ltd ? The time, nature and circumstances of death is not disputed. The contractual relationship between M/s. Mega India and NESCO Ltd. is not disputed by the Appellant. The engagement of the deceased by M/s. Mega India through the Sub-Contractor to discharge

electrical work is also not disputed. So all such contentions raised by learned counsel to discharge the Appellant from the liability are found without merit and rejected. The finding of the learned Commissioner and the reasons assigned by him to fix the liability on the present Appellant for payment of compensation is found without any infirmity.

9. In the result the appeal is dismissed.

10. Since the entire awarded amount has been deposited before the learned Commissioner, the same be disbursed in favour of the claimants with accrued interest within a period of four weeks from today.

11. An urgent certified copy of this order be issued as per rules.



(B.P. Routray)
Judge

M.K.Panda