

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**FAO No.375 of 2015**

***M/s. Oriental Insurance Company Ltd. .... Appellant***

Ms. Pami Rath along with Ms.S. Gumansingh, Advocate

-versus-

***Khulana Das and Another .... Respondents***

Mr. A.S. Nandy, counsel for Respondent No.1

**CORAM:**  
**SHRI JUSTICE B. P. ROUTRAY**

**ORDER**  
**7.4.2022**

**Order No.**

10. 1. Heard Ms. Pami Rath along with Ms. S. Gumansingh, learned counsel for the insurer-Appellant and Mr. A.S. Nandy, learned counsel for Respondent No.1.
2. Present appeal by the insurer is directed against the award dated 11<sup>th</sup> April, 2015 of the learned Commissioner for Employee's Compensation-cum-Assistant Labour Commissioner, Angul in E.C. Case No.38 of 2012 wherein compensation to the tune of Rs.4,07,700/- has been awarded on account of death of the deceased in course of his employment as helper of the truck bearing registration number OR 19 D 7090.
3. The case of the claimant is that her husband while working as a helper in the aforementioned vehicle and was repairing the same on the date of accident, the offending vehicle bearing registration number OR 19 E 3353 dashed against the vehicle under which he was doing repairing work and as a result of such accident his both legs were crushed. The accident occurred on 31<sup>st</sup> May, 2011 and he was

immediately shifted to the hospital, undergone treatment and died on 30<sup>th</sup> June, 2012.

4. It is submitted on behalf of the Appellant that the death of the deceased after such long period from the date of accident makes the same doubtful in the sense that if his death is actually arising out of the injuries sustained in the accident. In other words, it is the submission of the Appellant that the death of the deceased is no-way connected to his employment and the claimant being failed to prove the same, is not entitled for any compensation.

5. In reply Mr. Nandy, learned counsel for the Claimant submits that the Police papers such as copy of F.I.R., final report, injury report, etc. establish the case of the claimant about sustainance of injury by the deceased in the accident and so far his death is concerned, the same is connected to those injuries as is established from the oral evidence of the claimant.

6. It is further submitted that such a plea taken here by the Appellant was never taken before the Commissioner and as such is not entertainable at this stage.

7. Upon hearing both parties and perusal of the copy of the WS as produced in course of hearing, it reveals from paragraph 8 that, the Appellant has completely denied the fact of accident including the death due to the injuries sustained in the accident. Therefore, the contention that no such plea was taken by the Appellant is not found correct.

8. Next to see the connection of the death of deceased with the injuries sustained by him in the accident, looking to the injury report it

reveals that the deceased had sustained two grievous compound injuries as both of his legs at the lower part were crushed. Further by looking into the medical papers, the certified copies of which are produced, the continuous treatment of the deceased from the date of accident is justified. It further shows that he was under treatment at Aswini Hospital for crush injury of both lower limbs up to 1<sup>st</sup> March, 2012.

9. As such the circumstances inferred from those documents of injury report and medical papers do not support the claim of the appellant to disbelieve the cause of death not arising out of injuries sustained by the deceased.

10. Upon thorough scrutiny of such materials brought on record, the certified copies of which were produced in course of hearing, no merit is seen in the contention of the Appellant to warrant any interference in the impugned award.

11. In the result the appeal is dismissed.

12. Since the entire compensation amount has already been deposited before the learned Commissioner, same shall be disbursed in favour of the claimant along with accrued interest thereof within a period of two months from today.

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

**( B.P. Routray )**  
**Judge**