

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.634 of 2019

Divisional Manager, ***Appellant***
M/s.Oriental Insurance Co.Ltd.

Mr.P.K.Mohanty, Advocate

-versus-

Shantilata Naik and others ***Respondents***
Mr.P.K.Mishra, Advocate for Respondent Nos.1 to 5

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
02.09.2022

Order No.

I.A.No.879 of 2019

4. 1. The matter is taken up through Hybrid mode.
 2. Since no delay is there, the I.A. is disposed of.

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3. Heard Mr.Mohanty, learned counsel for the Appellant
and Mr.Mishra, learned counsel for Respondent Nos.1 to 5.

4. Present appeal by the Insurer is directed against
impugned judgment/award dated 31st May, 2019 passed by the
Commissioner for Employee's Compensation-Cum-Divisional
Labour Commissioner, Sambalpur in E.C.Case No.11 of 2016,
wherein compensation to the tune of Rs.5,34,240/- has been
granted including interest on account of death of the deceased

arising out of and in course of his employment as driver of the Truck bearing Registration No.OR-15P-2779.

5. Mr.Mohanty on behalf of the Appellant contends that the deceased was driving the truck without having a valid driving license to drive the transport vehicle. Secondly, it is submitted that the deceased was though 56 years of age on the date of accident, the Commissioner took his age as 54 years. Mr.Mohanty, learned counsel for the Appellant produces a copy of the driving license of the deceased Laba Kumar Naik and the same is taken on record.

6. Perusal of said copy of the driving license reveals that the deceased was authorized to drive the transport vehicle including HMTV goods vehicle with effect from 7.5.1988 valid till 3rd January, 2019. Therefore the contentions raised regarding unauthorized driving of the vehicle by the deceased on the date of accident is not found correct and is accordingly rejected.

7. It is further seen from said copy of the driving license that the date of birth of the deceased is 15th May, 1962 which means his age on the date of accident was 54 years and one month. Therefore the age of the deceased is established to be 54 years and accordingly, the Commissioner has taken the same to

apply the factor 133.56. As per the Schedule-IV of the E.C. Act, 1923, the age factor for 54 years is prescribed to be 139.13, but the commissioner applied 133.56 without any reason. However in absence of any challenge from the side of the claimants, this Court refrains from modifying the award in favour of the claimants.

8. Such being the grounds of challenges and no dispute regarding the employment of the deceased is put-forth, I do not find any infirmity in the award of the Commissioner to interfere with the same. For all such clear mentions in the copy of the driving license, as discussed in earlier paragraph, the grounds of challenge advanced by the Insurer in the present appeal are not only found meritless, but also are viewed as unnecessary attempt of harassment to the poor claimants to deprive them from their legitimate compensation by dragging them to this court.

9. At this stage, it is submitted by Mr. Mishra, learned counsel for the claimants that the Insurer deliberately did not deposit the interest amount before the Commissioner till date.

10. Such practice on the part of the Insurance Company in preferring appeal without any good ground is deprecated and this

court was though initially inclined to impose cost but refrained itself considering the statutory right of the insurer to appeal.

11. In view of the discussions made above, the appeal is dismissed with a direction to the Appellant – Insurer to deposit the entire award amount along-with interest before the Commissioner within a period of eight weeks from today, which shall be disbursed in favour of the claimants.

(B.P. Routray)
Judge

C.R.Biswal

