

IN THE HIGH COURT OF ORISSA AT CUTTACK
FAO No.644 of 2020

***Divisional Manager, National
Insurance Company Ltd.***

.... ***Appellant***

Mr. Bikra Pratap Das , Advocate

-versus-

Ranjan Kumar Sahoo and Another

.... ***Respondents***

Mr. Debasis Patnaik, counsel for Respondent No.1

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
16.3.2022

Order No.

07. 1. Heard Mr. B.P. Das, learned counsel for the insurer-Appellant and Mr. D. Patnaik, learned counsel for the claimant – Respondent No.1.
2. Present appeal by the insurer is directed against award dated 18th December, 2019 of the learned Commissioner for Employee's Compensation-cum-Divisional Labour Commissioner, Cuttack in E.C. Case No.43-D of 2017 wherein compensation to the tune of Rs.8,30,790/- has been awarded on account of injuries sustained by the claimant in course of his employment as driver of the truck bearing registration number OR 05 AL 9857.
3. Mr. Das, learned counsel for the Appellant submits that in absence of any proof of employment of the injured claimant as driver of the truck, the learned Commissioner has accepted him as such and fixed his wage at Rs.8000/- per month. Mr. Das further contends that

the medical expenditure to the tune of Rs.49,061/- as determined by the Commissioner is without any documentary evidence. .

4. Having heard both parties and upon perusal of the impugned judgment it reveals that O.P.W.1 – the Manager of owner Company of the truck by coming to the witness box has admitted the employment of the injured as driver of the truck in question. The owner in his WS has also not disputed the employment of the injured under him. No evidence to the contrary has been adduced from the side of the insurer. Therefore, in view of admission of the owner and the oral evidence adduced from the side of the claimant no more doubt remains with regard to employment of the claimant as driver of the truck in question. The contention of the Appellant disputing the employment of the injured – claimant is without merit.

5. So far the other contention about fixing of monthly wage up to Rs.8000/- is concerned, the same has been done by the Commissioner keeping in view the statutory limit prescribed under the Employee Compensation Act. The accident is dated 31st January, 2017 and as such no infirmity is seen in the approach of the learned Commissioner in fixing the monthly wage of the injured to the said extent.

6. The other contention that medical expenses is not supported with any documentary evidence, is not found with substance since Ext.1 is the discharge certificate with regard to treatment of the claimant for the period from 1st February, 2017 to 7th February, 2017 as an indoor patient for major operation. Keeping in view the nature of injuries, i.e. right knee fracture and operation was done with

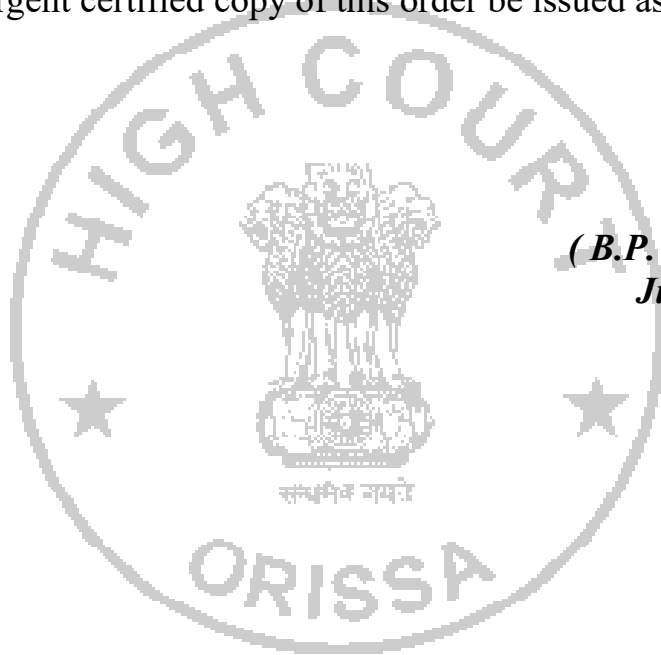
nailing, no illegality is found in granting Rs.49,061/- towards medical expenses.

7. In the result the appeal is dismissed being without merit.

8. Since the entire compensation amount has already been deposited before the learned Commissioner, the same shall be disbursed along with accrued interest in favour of the claimant – Respondent No.1 within a period of two months from today.

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

M.K.Panda



(B.P. Routray)
Judge