

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.270 of 2017

The Manager, T.P. Cell, M/s.New India Assurance Co. Ltd. ***Appellant***

Mr. S. Roy, Advocate

-versus-

Saroj Kumar Sahoo and others ***Respondents***

Mr. R. Biswal, Advocate for Respondent Nos.1 & 2

CORAM:

JUSTICE B. P. ROUTRAY

ORDER
10.03.2022

Order No.

12.

1. Since the employment of the deceased through the contractor-Respondent No.3 is not disputed, the notice on Respondent No.3 is dispensed with.

2. Heard Mr. S. Roy, learned counsel for the Appellant-Insurance Company as well as Mr. R. Biswal, learned counsel for the claimants-Respondent Nos.1 & 2.

3. Present appeal by the insurer is directed against the judgment and award dated 14.7.2016 passed in E.C. Case No.452-D/2015 by the Commissioner for Employee's Compensation-cum-Asst. Labour Commissioner, Cuttack wherein compensation to the tune of Rs.8,73,880/- has been granted to the claimants-Respondent Nos.1 & 2 on account of death of the deceased in course of and

arising out of the employment as R.T.-I Radiographer under the principal employer-Respondent No.5.

4. It is contended on behalf of the Appellant that the nature of death of the deceased which is due to renal failure has no connection with the nature of employment of the deceased. But learned Commissioner without any discussion on the same has come to the conclusion that the death of the deceased arises out of and in course of employment under Respondent No.5.

5. The claimants approached the Commissioner stating that the deceased was working as R.T.-I Radiographer in the work site of the employer on 17.3.2015 when he fell ill. He was treated at Mumbai for two days and thereafter admitted as an indoor patient. The deceased was subsequently brought to Odisha where he undergone treatment at SCB Medical College and Hospital, Cuttack and died on 26.3.2015.

6. It needs to mention here the main challenge of the Appellant in the present appeal is to the effect that the death of the deceased is no way connected with his nature of employment. Perusal of the claim application though does not reveal the nature of job of the deceased in detail, but as gathered from the written statement filed by the employer he was engaged for around 4/5 years prior to the incident and his job was to take photographs through X-ray instruments, apparatus and mechanic structures. This means, the deceased was to deal with X-ray radiating machines. Keeping in view the same, the death of the deceased cannot be stated as

unconnected with the nature of employment as a Radiographer under the principal employer. The evidences adduced before the Commissioner by the parties does not rule out anything specifically in that aspect to form the opinion against deceased.

7. The insurer-Appellant did not contest the claim before learned Commissioner. Therefore, the submission of the Appellant before this court cannot be accepted now to discard the contention of the claimants with regard to the death of the deceased arising out of and in course of his employment as a Radiographer.

8. In the result, the appeal is dismissed being without merit.

(*B.P. Routray*)
Judge