

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.815 of 2018

National Insurance Company Limited* *Appellant

Mr. A. Das, Advocate on behalf of Mr. G. Mishra, Senior
Advocate

-versus-

Ghanashyam Das and others* *Respondents

Mr. B.N. Rath, Advocate for Respondent Nos.1 & 2

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

18.02.2022

Order No.

02.

1. Heard Mr. A. Das, learned counsel on behalf of Mr. G. Mishra, learned Senior Advocate for the Appellant-Insurance Company as well as Mr. B.N. Rath, learned counsel for the claimants-Respondent Nos.1 & 2.

2. Present appeal by the insurer is directed against the judgment and award dated 8.6.2018 passed in E.C. Case No.42-D/2016 by the Commissioner for Employee's Compensation-cum-Assistant Labour Commissioner, Cuttack wherein compensation to the tune of Rs.7,34,720/- 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, who was working as a labourer in the Truck bearing Registration No.OR-09-E-0177.

3. It is submitted on behalf of the Appellant that the alleged accident resulting death of the deceased has no nexus with the nature of employment since the deceased was hit by an unknown vehicle. The said contention made on behalf of the Appellant is

rejected out-right in view of the fact that at the time of accident the deceased was performing his duty in the truck and had been to the tyre repairing shop to bring the punctured tyre.

4. The next contention raised by the Appellant is with regard to quantum and it is submitted that keeping in view the prevalent wages prescribed during the year 2014, the monthly wages of the deceased cannot exceed Rs.4500/-.

5. In course of hearing, a reduced compensation of Rs.6,00,000/- consolidated is proposed. Learned counsel for the claimants-Respondent Nos.1 & 2 agrees to the same and Mr. A. Das, learned counsel on behalf of Mr. G. Mishra, learned Senior Advocate for the Appellant-Insurance Company leaves it to the discretion of the Court. The compensation amount is accordingly fixed to that extent.

6. Since the entire award amount has been deposited before the learned Commissioner and in terms of the order dated 20.09.2019, 30% of the same has already been released in favour of the claimant-Respondents Nos.1 & 2, the balance amount, out of the consolidated amount of Rs.6,00,000/- along with proportionate accrued interest be disbursed in favour of the claimant-Respondents Nos.1 & 2 within a period of eight weeks from today and the rest amount along with proportionate accrued interest thereon shall be refunded to the Appellant-Insurance Company within the same period on proper application.

7. With aforesaid modification of the award, the FAO is disposed of.

8. An urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge

B.K. Barik

