

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO NO.219 OF 2021

From the Judgment/Order dated 23.08.2021 passed by the learned Commissioner for Employees' Compensation –cum-Joint Labour Commissioner, Cuttack in E.C. Case No.288-D/2-016.

The Divisional Manager, M/s. :::: Appellant
New India Assurance Co. Ltd.

--: VERSUS :-

M. Pochmalu & Anr. :::: Respondents

Appeared in this case by Video Conferencing Mode / Hybrid
Mode.

For Appellant :::: Mr. S.K. Sarangi, Sr. Advocate
(for Appellant)

For Respondent :::: Mr. S.B. Das, Advocate
(for Respondent No. 1)

PRESENT :

THE HON'BLE MR. JUSTICE B.P.SATAPATHY

Date of Hearing- 05.07.2022:: Date of Order- 12.07.2022

B.P.Satapathy, J. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. S.K. Sarangi, learned Senior Counsel appearing for the Appellant and Mr. S.B. Das, learned counsel appearing for the Claimants-Respondent No. 1.

3. This appeal has been filed by the Appellant-Company challenging the Judgment dated 23.08.2021 passed in E.C. Case No.288-D of 2016 by the learned Commissioner for Employees' Compensation –cum- Joint Labour Commissioner, Cuttack.

4. Mr. Sarangi, learned Senior Counsel appearing for the Appellant-Company submitted that learned Commissioner without proper appreciation of the grounds raise by the Appellant-Company, held the Claimant entitled to get compensation amount of Rs.7,67,040/- (Rs. Seven lakh sixty seven thousand forty) and interest amounting to Rs.7,42,158/- (Rs. Seven lakh forty two thousand one hundred fifty eight) in total Rs.15,09,198/- (Rs. Fifteen lakh nine thousand one hundred ninety eight). It is submitted that learned Commissioner illegally held the loss of earning capacity of the Claimant at 100% though the disability certificate indicates his disability to the extent of 55%.

5. It is also submitted that learned Tribunal without taking into account the minimum wages prescribed for a skilled worker i.e. at Rs.190/- per day, held the monthly income of the Claimant at Rs.8,000/- (Rs. Eight thousand). It is also submitted that learned Tribunal also committed illegality in allowing 50% penalty along with interest @ 12% per annum on the non satisfaction of the award within 30 days from the date of order. Indicating all such

grounds Mr. Sarangi prayed for interference of this Court in the impugned Judgment passed by the learned Commissioner.

6. Mr. Das, learned counsel appearing for the Claimant-Respondent though supported the impugned Judgment but when confronted with the stand taken by the Appellant in the memo of appeal, fail to satisfy this Court on the ground raised by the Appellant.

7. Having considered the rival stand taken by learned counsel appearing for both the Parties, this Court when came to a finding that the Claimant-Respondent will be entitled to get compensation amount of Rs.8,00,000/- (Rs. Eight lakhs) consolidated, Mr. Das, learned counsel appearing for the Claimant-Respondent supported the said view of this Court. Mr. Sarangi, learned Senior Counsel left the same to the discretion of this Court

8. In view of such stand taken by the learned counsel appearing for both the Parties, this Court while interfering with the impugned judgment, held that the Claimants-Respondents will be entitled to get compensation amount of Rs. 8,00,000/- (Rs. Eight lakh) consolidated. Since it is submitted that the entire compensation amount has been deposited by the Appellant before the learned Commissioner, learned Commissioner is directed to release a sum of Rs.8,00,000/- (Rs. Eight lakhs) in favour of the Claimant-Respondent. After releasing such amount the residue amount along with interest, if any, shall be released in favour of the Appellant-Company. The entire exercise shall be completed within a period of one month from the date of receipt of this order.

9. This appeal is accordingly disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
The 12th July, 2022/Sneha

