

IN THE HIGH COURT OF ORISSA AT CUTTACK
FAO No.701 of 2020

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

Mr. G.P. Dutta, Advocate

-versus-

Surya Narayan Gauda and others ***Respondents***

Mr. P.K. Behera, Advocate for Respondent Nos.1 & 2

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
28.09.2022

Order No.
04.

1. Heard Mr. G.P. Dutta, learned counsel for the Appellant-Insurance Company and Mr. P.K. Behera, learned counsel for the Respondent Nos.1 & 2-claimants.

2. Present appeal by the insurer is directed against the judgment and award dated 17.08.2020 passed in E.C. Case No.05/2017 (W.C. Case No.63/2010 (Jeypore) by the Commissioner for Employee's Compensation and Divisional Labour Commissioner, Rayagada wherein compensation to the tune of Rs.4,42,740/- along with interest @12% per annum from the date of accident 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 the driver in the Commander Jeep bearing Registration No.OR-04-C-7881 belonging to Respondent No.3.

3. Mr. G.P. Dutta, learned counsel for the Appellant-Insurance Company submits that they are not liable to pay interest from the date of accident since the notice was issued only in the year 2017.

As per Mr. Dutta, the insurer cannot be held liable to pay the interest when he is not found negligent for the delay.

4. It reveals from the impugned award that the learned Commissioner has observed at paragraph-1 that initially the applicants filed the claim application before the Deputy Labour Commissioner, Jeypore, which was registered as W.C. Case No.63/2010 and after restructuring of labour service cadre, the case was transferred to Rayagada and re-registered as E.C. Case No.05/2017

5. Aforesaid observation of the Commissioner does not suggest anything that the claimants-applicants were ever negligent in pursuing their case. The question is not that the insurer is negligent in pursuing the case as contended by Mr. Dutta, but the question for grant of interest, which is a statutory entitlement on the part of claimant, is that, the claimant cannot be deprived of the same without established negligence on his part. Therefore, the contention of the Appellant to exonerate them from payment of interest on the compensation amount is rejected.

6. In the result, the appeal is dismissed and the amount deposited before the learned Commissioner be disbursed in favour of the claimants along with accrued interest, if any, subject to such adjustment of the amount already released in favour of the claimants in terms of order of this Court dated 18.03.2021.

(B.P. Routray)
Judge