

IN THE HIGH COURT OF ORISSA AT CUTTACK
FAO No.240 of 2021

***The Vice President & Zone Head
(Claims), M/s. Tata AIG General
Insurance Company Ltd.***

.... ***Appellant***

Mr. G.P. Dutta, Advocate

-versus-

Harekrushna Samal and Another

.... ***Respondents***

Mr. K.K. Das, counsel for Respondent No.1

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
28.3.2022

Order No.

03. 1. Heard Mr. G.P. Dutta, learned counsel for the insurer-Appellant, Mr. K.K. Das, learned counsel for the claimant – Respondent No.1 and Mr. B. Singh on behalf of Mr. P.K. Nayak, learned counsel for Respondent No.2.
2. Present appeal by the insurer is directed against award dated 26th August, 2021 of the learned Commissioner for Employee's Compensation-cum-Divisional Labour Commissioner, Headquarters in E.C. Case No.86 of 2015 wherein compensation to the tune of Rs.6,02,404/- has been awarded on account of injuries sustained by the claimant in course of his employment as helper of the truck bearing registration number OR 09 D 7287.
3. Mr. Dutta submits on behalf of the Appellant that no such accident took place and the claimant himself in his own handwriting

dated 18th September, 2021 has admitted the same. A copy of the said hand-written statement of the claimant dated 18th September, 2021 along with some photographs and the report of the investigator of the Appellant – Insurance Company (total consisting of 5 sheets) is sought to be adduced on record through additional evidence in I.A. No.8 of 2022.

4. Such documents sought to be adduced through additional evidence are vehemently objected by Mr. Das as well as Mr. Singh, learned counsel for the Claimant and owner respectively. It is submitted by Mr. Das that, one criminal complaint has been lodged by the claimants concerning the purported hand-written statement of the claimant that the same was obtained by the insurance authorities through impersonation by playing fraud and coercion and the said complaint is still pending adjudication before the learned J.M.F.C., Salipur in I.C.C. No.38 of 2022.

5. Having heard all the parties, it reveals that the documents sought to be adduced through additional evidence are inadmissible for lack of evidentiary values. Secondly, the opinion of the surveyor amounts to hearsay evidence for he has no direct knowledge about the occurrence. Further the dispute with regard to the alleged handwritten statement of the claimant is now pending adjudication in a criminal case having competent jurisdiction. In such view of the matter, the prayer to adduce additional evidence is rejected.

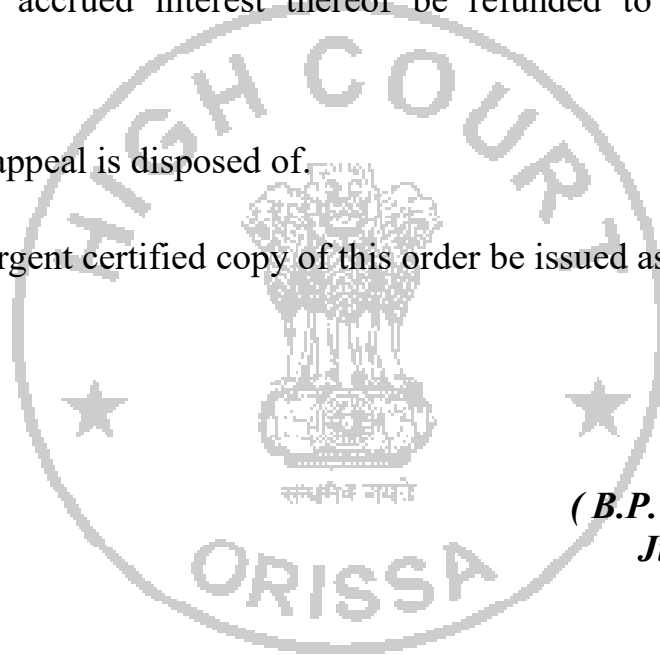
6. Considering the grounds of challenge with regard to quantum of compensation, a reduced amount of Rs.4,00,000/- consolidated is proposed to the parties. This is agreed by Mr. Das and Mr. Singh,

learned counsels for the claimant and owner– Respondents respectively. Mr. Dutta leaves it to the discretion of the Court. As such the amount is fixed to the said extent.

7. Since the entire compensation amount has already been deposited before the learned Commissioner, out of the same a consolidated sum of Rs.4,00,000/- (four lakh) along with accrued interest thereof be disbursed in favour of the claimant – Respondent No.1 within a period of two months from today. The rest amount along with accrued interest thereof be refunded to the insurer – Appellant.

8. The appeal is disposed of.

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



(B.P. Routray)
Judge