

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.715 of 2020

**Divisional Manager, Oriental Appellant
Insurance Co. Ltd.**

-versus-

Sukanta Bhuyan & Anr. Respondents

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
21.06.2022**

Order No

- 08.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. P.K. Mahali, learned counsel appearing for the Appellant-Company and Mr. D.K. Mohapatra, learned counsel appearing on behalf of Claimant-Respondent No. 1.
3. This appeal has been filed by the Appellant-Company challenging the order dtd.30.12.2019 passed in W.C. Case No. 329-D/2001 by the learned Commissioner for Employees Compensation –cum- Additional Labour Commissioner, Cuttack.
4. Mr. Mahali, learned counsel appearing for the Appellant-Company vehemently submitted that learned Commissioner in absence of any materials, held the monthly income of the injured Appellant at Rs.4,000/- (Rs.Four Thousand) per month though in the claim Petition, the Claimant had indicated his monthly income at Rs.3,000/- (Rs. Three thousand).

5. It is also submitted that in spite of the order passed by the learned Commissioner on 16.03.2006, the injured Respondent never produced the documents as provided under Rule 21 of the Workmen's Compensation Rules, 1924. It is accordingly submitted that since no document was produced in compliance of Rule 21 of the Workmen's Compensation Rules, 1924, learned Tribunal committed error in assessing the compensation at Rs.2,87,136/- (Rs. two lakhs eighty seven thousand one hundred thirty six) and by awarding interest for a period of 18 years 5 months and 24 days i.e. from 07.07.2001 to 30.12.2019. It is accordingly submitted by the learned counsel appearing for the Appellant that the impugned Judgment passed by the learned Commissioner needs interference of this Court. Mr. Mohapatra, learned counsel appearing for the Respondent No. 1 though supported the impugned order, but fails to satisfy this Court with regard to the stand taken by the learned counsel appearing for the Appellant regarding the monthly income of the injured and non-compliance of the provision contained under Rule 21 of the Workmen's Compensation Rules, 1924.

6. Heard learned counsel for the Parties at length. Perused the materials available on record. From the perusal of the records it is found that the claim Petition was filed by the injured-Respondent No. 1 by showing his monthly income at Rs.3,000/- (Rs. Three thousand) and no document whatsoever was exhibited showing his monthly income at Rs.4,000/- (Rs. Four thousand), which has been taken as the monthly income by the learned Commissioner while assessing the compensation. From the record it is also revealed that the direction contained in Order dtd.16.06.2006 was never complied with by the injured as provided under Rule 21 of the Workmen's Compensation Rules, 1924. But in view of the fact that the injured

Respondent No. 1 sustained injury in course of his employment as a Conductor in Vehicle bearing Regd. No. OR-05-B-4994 on 07.07.2001, this Court taking into account the submissions made by the learned counsel appearing for the Parties finds it just and proper to interfere with the award passed by the learned Commissioner. Taking into account the monthly income of the injured at Rs.3,000/- (Rs. Three thousand) and the statutory interest payable on the same, this Court held the Respondent No. 1 entitled to get consolidated sum of Rs.6,92,000/- (Rs. Six lakhs ninety two thousand). While Mr. Mohapatra supported the aforesaid view of this Court, Mr. Mahali left the same to the discretion of this Court.

8. Since it is submitted that the entire compensation amount has been deposited before the learned Commissioner, it is directed that learned Commissioner shall disburse a sum of Rs. 6,92,000/- (Rs. Six lakhs ninety two thousand) in favour of the Respondent No. 1 within a period of 30 days from the date of receipt of this order. The residue amount along with interest be refunded to the Appellant-Company within that time also. The LCR be sent back immediately to the Court of learned Commissioner by the Registry.

9. The appeal is disposed of in terms of the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha