

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.296 of 2021

National Insurance Co. Ltd. Appellant

-versus-

Lalita Devi & Ors. Respondents

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
05.07.2022**

Order No

09.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Ms. Nibedita Mohanty, learned counsel appearing for the Appellant-Company and Mr. Pradeep Kumar Mishra, learned counsel appearing on behalf of Claimants-Respondent Nos. 1, 2 & 3.

3. This appeal has been filed by the Appellant-Company challenging the Judgment dtd.27.08.2021 passed in E.C. Case No.38/2021 by the learned Commissioner for Employees Compensation-cum-Joint Labour Commission, Cuttack.

4. Ms. Mohanty, learned counsel for the Appellant-Company submitted that learned Tribunal while assessing the compensation illegally held the monthly income of the deceased at Rs.10,000/- pr

month in absence of any material to that effect. It is further submitted that taking into account the nature of work rendered by the deceased, the prescribed minimum wages should have been calculated at Rs.190/- per day. Accordingly, Ms. Mohanty submitted that learned Tribunal has assessed the compensation at the higher side because of the wrong assessment of the monthly income and prayed for interference of this Court in the impugned Judgment.

5. Mr. Mishra, learned counsel for the Claimant-Respondent Nos. 1, 2 & 3 though supported the impugned Judgment, but failed to counter the stand taken by the Appellant-Company with regard to the monthly income assessed by the Commissioner. Since from the impugned Judgment it is not found that as to on which basis the Commissioner assessed the monthly income of the deceased at Rs.10,000/- (Rs. Ten thousand) per month, this Court after going through the materials available on record when came to a conclusion that the Claimants-Respondents will be entitled to get consolidated compensation amount of Rs.11,00,000/- (Rs. Eleven lakh), Mr. Mishra, learned counsel appearing for the Claimants-Respondents supported the said view of this Court. Ms. Mohanty left the same to the discretion of this Court.

6. In view of such stand taken by the learned counsel appearing for the Parties, this Court while interfering with the impugned Judgment held that the Claimants-Respondents 1 to 3 will be entitled to get compensation amount of Rs.11,00,000/- (Rs. Eleven lakh) consolidated. Since it is submitted that the entire compensation amount has been deposited by the Appellant-Company before the learned Commissioner, learned Commissioner

is directed to release a sum Rs.11,00,000/- (Rs. Eleven lakh) consolidated in favour of the Claimants-Respondents. 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.

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

(Biraja Prasanna Satapathy)
Judge

Sneha

