IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.546 of 2025

CNR No. ODHC010845582025

The Manager, Legal M/s. Future General India Insurance Company Ltd., Kolkata	....	**Appellant** Mr. A.A. Khan, Advocate

-versus-

Subash Chandra Malik & Anr.	....	**Respondents** Mr. D. Patnaik, Adv. (for Resp. No.1)

COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
06.11.2026

I.A. No.1095 of 2025

Order No

06. **1.** This matter is taken up through Hybrid Mode.

2. Heard learned counsel appearing for the Parties.

3. Even though notice on the question of limitation has not yet been issued, but considering the submission of the learned counsel appearing for the appellant and learned counsel appearing for the claimant-Respondents that the matter can be disposed of by way of settlement, this Court is inclined to condone the delay in filing the appeal.

4. Accordingly, the I.A stands disposed of.

(Biraja Prasanna Satapathy)
Judge

FAO No.546 of 2025

07. 1. Heard learned counsel appearing for the Parties.

2. This appeal has been filed *inter alia* challenging the judgment passed by the learned Commissioner for Employee's Compensation –cum - Joint Labour Commissioner, Cuttack in E.C. Case No.376 of 2022. Vide the said judgment, learned Commissioner held the Claimant-Respondent No.1 entitled to get compensation amount of Rs.15,92,719/- along with interest @ 12% per annum from the date of accident till payment within a period of 30 (thirty) days from the date of order failing which appellant will be liable to pay 50% penalty along with interest.

3. In support of the appeal, learned counsel for the Appellant contended that since the accident took place on 16.12.2019, as per Section-10(1) of the E.C Act, the application should have been filed within a period of two years i.e. by 16.12.2021. But the same though was filed only on 31.12.2022, which is beyond the period of limitation, but no application for condonation of delay was filed by the claimant/Respondent No.1. In view of the same, application for compensation could not have been entertained.

3.1. It is also contended that even though as per the statement of the claimant/Respondent No.1, he sustained the injuries when a street dog dashed against his motorcycle as a result of which he fell down, but filed the claim application by showing him as a helper of TATA ACE

Vehicle. It is contended that Respondent No.1 never worked as a helper in the TATA ACE and he does not know the owner of the TATA ACE though the said document was filed and marked as Ext.B. The alleged treating physician of the applicant though assessed the LOEC of the applicant to the extent of 80%, but learned Commissioner without any reason assessed the same at 100%, which is against the settled principles of law as well as the mandate of Section-4(i)(c)(ii) of the E.C Act.

3.2. It is also contended that owner of the TATA ACE-Respondent No.2, though deposed that he was paying Rs.7,000/- as monthly wages to the claimant-Respondent No.1, but failed to produce any documentary evidence in that regard. Hence, learned Commissioner should have assessed the monthly wages of the Respondent No.1 by treating him to be an unskilled labourer. But learned Commissioner committed gross illegality by taking the monthly wages of the Respondent No.1 at Rs.8,000/-.

3.3. Learned Commissioner also erred in directing the appellant to pay penalty @ 50% with penal interest @ 12% p.a. on the awarded amount, from the date of accident if the same is not paid within 30 days from the date of judgment, as decided by the Hon'ble Apex Court.

3.4. Making all these submissions, learned counsel for the appellant contended that the impugned award needs interference of this Court.

4. Even though Mr. D. Pattnaik, learned counsel appearing on behalf of Respondent No.1 supported the

impugned judgment, but contended that Claimants-Respondent No.1 will be fully satisfied, if this Court will allow compensation amount of Rs.7,50,000/- consolidated in favour of Respondent No.1.

5. Learned counsel for the Appellant to the aforesaid submissions of the learned counsel for the Claimants-Respondents No.1 leave the same to the discretion of this Court.

6. Having heard learned counsel for the parties and considering the submissions made, this Court while interfering with the impugned judgment, held the Claimants-Respondents No.1 entitled to get compensation amount of Rs.7,50,000/- consolidated in full and final settlement of the claim. While holding so, this Court directs learned Commissioner to release an amount of Rs.7,50,000/- consolidated in favour of the Claimants-Respondents No.1 within a period of 4 (four) weeks from the date of receipt of this order along with accrued interest, if any, on the deposited amount from the date of deposit till its payment in full and final settlement of his claim. The balance amount along with accrued interest, if any, be released in favour of the Appellant-Company within the aforesaid time period.

7. The appeal is accordingly disposed of.

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Signed by: SUBRAT KUMAR BARIK
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 10-Nov-2026 14:59:03

(Biraja Prasanna Satapathy)
Judge

Subrat