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**(2003) 04 OHC CK 0012**

**In the Orissa High Court**

**Case No : Miscellaneous Appeal No. 45 of 2001**

Divisional Manager Oriental Insurance Co. Ltd.

APPELLANT

Vs

Smt. Sini Singh Samurai and Others

RESPONDENT

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**Date of Decision : 22-04-2003**

**Acts Referred:**

Workmens Compensation Act, 1923 — Section 30

**Citation : (2003) 04 OHC CK 0012**

**Hon'ble Judges : Pradip Mohanty, J**

**Bench : Single Bench**

**Advocate :** Saktidhar Das, A.K. Nayak, B.N. Udgata, B.K. Sahoo, B. Patnaik, H.S. Satpathy, A. Mohanty and D.R. Bhokta, for the Appellant; B. Singh, J.K. Mohanty and S.K. Khuntia for Respondents 1 to 4, for the Respondent

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## **Judgement**

Pradip Mohanty, J.—This is an application u/s 30 of the Workmen's Compensation Act, 1923 (for short "the Act") against the judgment dated 18.12.2000 passed by the Commissioner for Workmen's Compensation-cum-Assistant Labour Commissioner, Balasore in W.C. Case No. 46 of 1998.

2. The case of the claimant-Respondents is that the deceased was a helper in the bus bearing registration number ORJ 8955 and on 16.6.98 at about 4.30 P.M. while he was coming from Sarat side towards Kaptipada in the above-mentioned bus it met with an accident as a result of which he fell down from the bus on the hard surface of the road near Hadguta, P.W.D. road under Sarat Police Station. In the above accident the deceased sustained profused bleeding injuries on different parts of his body and became unconscious and immediately he was shifted to the Udala Sub-divisional Hospital for treatment and there he was declared dead.

3. The owner-Respondent No. 5 appeared through his advocate and filed his written statement and also admitted that in course of his employment the deceased succumbed to the injuries. The Appellant-insurer in its written statement denied all the allegations.

4. In order to prove their case, the claimant-Respondents have examined as many as two witnesses including Respondent No. 1 and Anr. who corroborated the statement of Respondent No. 1 and exhibited the F.I.R., seizure list, post-mortem report and other documents.

5. After considering the claim petition and depositions of the witnesses and the documents, the learned Commissioner for Workmen's Compensation-cum-Assistant Labour Commissioner, Balasore in his order impugned herein has awarded a sum of Rs. 1,73, 528.00 to the claimant-Respondents.

6. Mr. Nayak, learned Counsel for the Appellant submitted that there was no clear evidence that the deceased was working under the Respondent No. 5, owner as helper and there was no contract between the deceased and the Respondent No. 5, owner. Therefore, in absence of any contract of the employment the deceased could not be treated as a workman as defined under Workmen's Compensation Act.

7. Perused the judgment and considering the facts and circumstances of the case, this Court is of the opinion that there is no substantial question of law involved in this appeal and the submissions made are disputed findings of fact. Therefore, this Court has no jurisdiction to interfere in the findings of fact.

8. In the midst of hearing, the learned Counsel for the Appellant-Insurance Company submitted that the Commissioner had assessed excessive compensation and the rate at which the Commissioner has calculated, was arbitrary. The learned Counsel for the claimant-Respondents has, however, agreed that if a reasonable amount is deducted, the claimants may not have any serious objection. Accordingly to meet the ends of justice, the amount of compensation payable by the Appellant is assessed at Rs. 1,60,000/- (Rupees One lakh Sixty thousand). The Respondent-claimants shall be at liberty to withdraw the aforesaid amount with accrued interest within two months.

Accordingly the award is modified to the aforesaid extent and is disposed of as such.