
(1987) 03 OHC CK 0004
In the Orissa High Court
Case No : M.A. No. 1 of 1979

New India Assurance Co. Ltd.

APPELLANT

Vs

Havaji Prem Kumari and Others

RESPONDENT

Date of Decision : 19-03-1987

Acts Referred:

Workmens Compensation Act, 1923 — Section 30

Citation : (1988) ACJ 250

Hon'ble Judges : P.C. Misra, J

Bench : Single Bench

Advocate : P. Roy, M. Sinha and S.C. Ghosh, for the Appellant; Sidheswar Das, for the Respondent

Final Decision : Dismissed

Judgement

P.C. Misra, J.—This is an appeal u/s 30 of the Workmen's Compensation Act filed by the insurance company challenging its liability fixed by the Assistant Labour Commissioner-cum-Commissioner of Workmen's Compensation, Cuttack in the impugned judgment. One Havaji Prasad Rao was employed by the present Respondent No. 5 as a driver in his truck which met with an accident on its way from Biribati to Machhagaon and in which the said driver met his death. His wife and other dependents impleaded in this appeal as Respondent Nos. 1 to 4 made a claim for compensation before the Commissioner under the Workmen's Compensation Act impleading the employer, namely, Respondent No. 5 and the Appellant as parties. The Commissioner of Workmen's Compensation in the impugned judgment found that the deceased Havaji Prasad Rao was an employee under the present Respondent No. 5 and that he met his death in the course of his employment. The compensation was fixed at Rs. 21,000/- and a sum of Rs. 2,940/- was awarded as interest on the same amount calculating at the rate of 6 per cent per annum from 27.6.1976 till 30.10.1978.

2. The Appellant in this appeal challenged its liability on the ground that the compensation payable under the Workmen's Compensation Act cannot be

saddled on the insurance company. The said point has evidently no merit inasmuch as the policy of assurance indemnifies the insured against any legal liability under the Workmen's Compensation Act. It is, therefore, futile to contend that the fixation of liability on the insurance company was improper. It was next urged by the learned Counsel for the Appellant that the Commissioner of Workmen's Compensation is not justified in awarding interest as has been done in the impugned judgment. In the facts and circumstances of the case, I do not find any illegality in awarding the interest from the date of accident till the date of judgment by the Commissioner of Workmen's Compensation. As a matter of fact, the entire amount as fixed by the Commissioner amounting to Rs. 23,940/- has already been paid by the Appellant to the claimants in January, 1979, i.e., immediately after the appeal was filed. Though according to the impugned judgment the interest was payable till the date of the payment, in the peculiar facts and circumstances of the case, I think, the Appellant should not be saddled with further interest beyond what has been paid by him.

3. In the result, the appeal is dismissed, subject to the modification as stated above. No costs.