

**(1998) 08 OHC CK 0025**  
**In the Orissa High Court**  
**Case No : O.J.C. No. 8316 of 1998**

S.K. Saukata Ali alias Sekha S.K.

APPELLANT

Vs

Commissioner for Workmen's Compensation cum Dy. Labour  
Commissioner and Others

RESPONDENT

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**Date of Decision :** 20-08-1998

**Acts Referred:**

Workmens Compensation (Amendment) Act, 1995 — Section 21  
Workmens Compensation Act, 1923 — Section 21(1)

**Citation :** (2000) ACJ 620 : (1999) 1 LLJ 1266

**Hon'ble Judges :** S.N. Phukan, C.J;C.R. Pal, J

**Bench :** Division Bench

**Advocate :** B.K. Mishra, for the Appellant; Government Advocate, for the Respondent

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## Judgement

S.N. Phukan, C. J.

1. The writ petitioner is residing in the State of Orissa and the opposite party No. 1 is also an officer of the State. Opposite Parties 2 and 3 also reside in Orissa. The petitioner was working as a helper in a bus bearing registration No. OBA 2964 under Opposite party No. 2 namely, Ramesh Chandra Mallick. On May 12, 1994 at about 10.30. P.M. while the petitioner was in employment and was discharging his duty as helper, the bus met with an accident near Golbazar, Kharagpur in the district of Midnapur, West Bengal and the petitioner sustained injuries. He was admitted to Midnapur Hospital and was confined to bed for two days as stated in the writ petition. Thereafter; he was removed to Grand Nursing Home, Cuttack and was confined to bed for about a month. Considering the seriousness of his condition, he was shifted to S. C. B. Medical College Hospital, Cuttack. The petitioner-workman filed a claim petition under the Workmen's Compensation Act 1923, before Commissioner for Workmen's Compensation, Cuttack which was registered as W.C. Case No. 100-D/1996, but the claim petition was dismissed by the order dated March 5, 1997 which runs as follows.:-

"Advocate for opp. party No. 2 filed Hazira. Applicant is absent on calls. The case is dismissed as the accident took place in West Bengal. Applicant is advised to file it again in the appropriate Court of West Bengal and may transfer it to this Court for taking further action.

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Advocate for the applicant appeared and filed a Memo to take back same documents from the case record. His submission is allowed."

2. Drawing our attention to Section 21 of the Workmen's Compensation Act the learned counsel for the petitioner urged that this section was amended by Act No. 30 of 1995 in the line of Motor Vehicles Act, 1988. Sub-Section (1) of Section 21 of Workmen's Compensation Act as amended by Act No. 30 of 1995 is quoted below:-

"21. Venue of proceedings and transfer-

(1) Where any matter under this Act is to be done by or before a Commissioner, the said shall, subject to the provisions of this Act and to any rules made hereunder, be done by or before the Commissioner for the area in which-

(a) the accident took place which resulted in the injury; or

(b) the workman or in case of his death, the dependent claimed the compensation ordinarily resides; or

(c) the employer has his registered office:

Provided that no matter shall be processed before or by a Commissioner, other than the Commissioner having jurisdiction over the area in which the accident took place, without his giving notice in the manner prescribed by the Central Government to the Commissioner having jurisdiction over the area and the State Government concerned:

Provided further that, where the workman, being the master of a ship or a seaman or the captain or a member of the crew of an aircraft or a workman in a motor vehicle or a company, meets with the accident outside India any such matter may be done by or before a Commissioner of the area in which the owner or agent of the ship, aircraft or motor vehicle resides or carries on business or the registered office of the company is situate, as the case may be.

(1-A) xxxxxx"

3. We have no hesitation in holding that in view of the provisions of Section 21 of the Act as it stands after the aforesaid amendment, the claim petition is maintainable in the district of Cuttack as the petitioner is residing here. It appears that probably the amended provisions was not brought to the notice of the Commissioner who has passed the impugned order. However, we do not express any opinion about limitation.

4. Accordingly, we set aside the impugned order and direct the Commissioner for Workmen's Compensation, Cuttack, opposite party No. 1 to restore the claim petition with the original number and dispose of it in accordance with law. We further direct that the petitioner shall file an affidavit before the Commissioner that he has not filed any claim petition before any other Commissioner under the Workmen's Compensation Act in the country.

With the above direction, the writ petition is disposed of.

C.R. Pal, J.

5. I agree.