

(2003) 09 GAU CK 0022**Gauhati High Court****Case No:** M.F.A. No. 18 of 2002

Oriental Insurance Co. Ltd.

APPELLANT

Vs

Haren Bora and Another

RESPONDENT

Date of Decision: Sept. 4, 2003**Citation:** (2004) 101 FLR 365 : (2004) 1 GLR 38 : (2004) 2 LLJ 224**Hon'ble Judges:** P.P. Naolekar, C.J; I.A. Ansari, J**Bench:** Division Bench**Advocate:** S. Dutta, for the Appellant; B.P. Kataky and M.K. Misra, for the Respondent**Judgement**

P.P. Naolekar, C.J.

With the consent of the Advocates appearing for the respective parties, this matter is finally heard.

2. The facts, in brief, are that the claimant-respondent No. 1 was employed as a driver if the vehicle (Mini Bus) belonging to respondent No. 2 Sri Phrikendra Saikia. On 20.2.2000 at about 1.50 PM, the said vehicle, hearing registration No. AS-02/A-0167, met with an accident at Lokhowajan Tiniali and in consequence thereof the driver-respondent No. 1, Sri Haren Bora has sustained serious injuries, it is an admitted fact by the parties that the respondent No. 1 was engaged by the respondent No. 2 as a driver, that he had sustained serious injuries and that injuries were sustained during the course of, and arising out of, the employment. The Commissioner, Workmen's Compensation on these findings has given an award of Rs. 2,49,576 with interest @ 12% per annum from the date of accident till deposit of the amount. Aggrieved by the said order, the Insurance Company has filed the present appeal.

3. The only submission made by the learned counsel for the appellant is that since the accident occurred on 20.2.2000, the Commissioner, Workmen's Compensation could not have awarded compensation on the basis of the amended Workmen's Compensation Act (Act No. 46 of 2000).

4. The Apex court in the case of Kerala State Electricity Board and Another Vs. Valsala K and Another, has held that a workman becomes entitled to get compensation the moment he suffers personal injuries applying the provisions of the Workmen's Compensation Act as it stands on that date.

5. The claimant-respondent No. 1, therefore, would not be entitled to compensation as provided under the Amendment Act of 2000, the accident having taken place on 20.2.2000 whereas the Amending Act came into force on and from 8.12.2000.

6. Calculating, therefore, the compensation on the basis of the unamended Workmen's Compensation Act, the claimant is entitled to receive an amount of Rs. 99,840 with 12% interest from the date of accident till the amount is deposited. The Insurance Company has already deposited the said amount of Rs. 99,840. Thus, the interest thereon shall work out to Rs. 24,000 which shall be deposited within a period of one month from today. The order passed by the Commissioner, Workmen's Compensation is modified to that extent and it is directed that the workman-respondent No. 1 will be entitled to the amount mentioned hereinabove.

7. For the aforesaid reasons, the appeal is partly allowed.