

(2011) 03 JH CK 0040

Jharkhand High Court

Case No: M.A. No. 31 of 2009

Oriental Insurance Company Ltd.

APPELLANT

Vs

Birendra Kumar and Another

RESPONDENT

Date of Decision: March 25, 2011

Citation: (2011) 2 JCR 509

Hon'ble Judges: Dhirubhai Naranbhai Patel, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

D.N. Patel, J.

Learned Counsel appearing for both the sides fairly submitted that there is some error in the calculation of compensation amount in the award passed by the Workmen Compensation Commissioner, Hazaribagh and to that extent only, this argument is canvassed.

2. It is submitted by learned Counsel for both the sides that in paragraph 5 of the judgment and order passed by the Workmen Compensation Commissioner, Hazaribagh, it has been mentioned that the age of the injured employee is 25 years and, therefore, the corresponding factor to be taken is also correct i.e. 216.91. So far as per month salary is concerned, which is arrived at by the Commissioner is Rs. 3350.62 per month. This figure is also correct. But, 60% of the monthly wage, which is arrived at Rs. 1675.31 is incorrect, 60% of Rs. 3350.62 will come to Rs. 2010.37. The Commissioner has arrived at the figure of compensation at Rs. 4,36,069.79/- . So far as calculation of the compensation for 100% disability i.e. the figure of Rs. 4,36,069.79/- is concerned, it is correct and, therefore, compensation awarded for 48% disability as per the medical certificate, which is at annexure 3 to the memo of the appeal comes to Rs. 2,09,313.50/- is also a correct amount as arrived at by the Workmen Compensation Commissioner, Hazaribagh. Thus, the only error committed by the Commissioner is a calculation of 60% of the monthly wage, otherwise, no error has been committed by the Workmen Compensation

Commissioner, Hazaribagh in awarding compensation for the injury, sustained by the employee.

3. Looking to the evidences namely, FIR, fardbayan. Medical Certificate, Driving Licence and Insurance Policy, on record, I see no reason to interfere with the judgment and order passed by the Workmen Compensation Commissioner, Hazaribagh. Driving Licence was valid. Insurance Policy was valid from 16.9.2006 to 15.9.2007 and the incident took place on 7th/8th February, 2007. Looking to Medical Certificate, it appears that there is 48% disability. Thus, no error has been committed by the Workmen Compensation Commissioner, Hazaribagh in awarding compensation at Rs. 2,09,313/- . There is no substance in this appeal and, hence, the same is hereby, dismissed.

4. It is submitted by learned Counsel for the Appellant that the amount of Rs. 2,09,313/- has already been deposited before the Workmen Compensation Commissioner, Hazaribagh.

5. Learned Counsel for Respondents prays for allowing the withdrawal of the said amount upon proper application preferred by the Respondents and proper identification of the party. The amount deposited by the Appellant is permitted to be withdrawn by the Respondents from Workmen Compensation Commissioner, Hazaribagh to the extent of Rs. 2,09,314/- . This amount will be paid by account payee cheque, upon proper application and identification of the party.

6. The appeal is, accordingly, disposed of.