

**IN THE HIGH COURT OF ORISSA AT CUTTACK****RVWPET No.22 of 2026**

(A petition under Section 114 of the C.P.C. for review of the order dated 12.12.2025 passed in FAO No.272 of 2016)

Sk. Harsh Uddin & Ors. *Petitioner (s)*

-versus-

Director, Interim Test Rang (ITR), *Opp. Party (s)*
Chandipur, Balasore & Anr.

Advocates appeared in the case:

For Petitioner (s) : *Mr. B. Singh, Adv.*

-versus-

For Opp. Party(s) : *Mr. Karunakar Nayak,*
Sr. Panel Counsel for Union of India.

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-23.02.2026

DATE OF JUDGMENT:-17.04.2026

Dr. Sanjeeb K Panigrahi, J.

1. This instant petition under Section 114 of Code of Civil Procedure, 1908 (in short, the "CPC") by the petitioners (hereinafter referred to as the "review-petitioners") praying therein to review/recall the order dated 12.12.2025 passed by this Court in FAO No.272 of 2016.
2. In order to avoid confusion and for the sake of convenience, it is to be reminded that the review petitioners are the Respondents and the Opposite Party No.1 herein is the Appellant in FAO No.272 of 2016, which has been dismissed by this Court.



3. Since the facts involved in this case has been dealt with in extenso in the FAO, this Court does not feel it necessary to recapitulate/reiterate the same and confines itself to the grounds of review of the final order as advanced by the Petitioner in the review petition. It appears to the Court that the petitioners seek to review the final order passed in the aforesaid appeal on the ground that cross objection filed by the claimants/ Respondent Nos.1 to 3 therein for granting of interest at the rate of 12 % per annum along with the award amount from the date of accident has not been dealt with at the time of disposal of the FAO, hence, there exists sufficient reason to review such order passed in the Appeal.
4. This Court has heard Mr. B. Singh, learned counsel for the Review Petitioners and Mr. Karunakar Nayak, learned Counsel appearing for the Opposite Parties in this matter.
5. In addition to oral arguments, the Review Petitioners have filed their written notes of submission. By way of the said written notes of submission, the Review Petitioners have contended that the Director, Interim Test Range (ITR), Chandipur (Opp. Party No.2 in court below) had filed this appeal assailing the judgment/award passed by the learned Commissioner for Employee's Compensation and Assistant Labour Commissioner, Balasore in E.C. Case No.03 of 2011 on the ground that the deceased was not a workman under him but he was a workman under the contractor (Opp. Party No.1), factor has not taken as per age of the deceased and no order/direction has passed under Section 12(2) of E.C Act regarding indemnification.



6. It is further submitted that the claimant-Respondents No.1 to 3, the present review petitioners had also filed cross objection challenging the award on the ground of non-granting of interest @ 12% on the awarded amount from the date of accident till payment as per the provision under Section 4-A (3) of E.C. Act. However, the learned Commissioner for Employee's Compensation and Assistant Labour Commissioner, Balasore while disposed of E.C Case No.03 of 2011 vide judgment dated 22.03.2016 though awarded compensation but had not granted interest @ 12% P.A along with compensation from the date of accident till payment as per statute for which the claimant-Respondent Nos.1 to 3 had filed Cross Objection in the above-mentioned F.A.O.
7. On 27.11.2025 the above-mentioned F.A.O as well as cross objection/appeal was listed for hearing before this Court. This Court vide judgment dated 12.12.2025 disposed the said appeal but inadvertently omitting the cross objection filed by the claimant-Respondent Nos.1 to 3 for grant of interest @ 12% per annum along with the award amount from the date of accident till payment.
8. It was argued that the law and the precedents make it clear that the interest must run from the date of accident. But, in paragraphs 12 and 15 of the aforesaid judgment it has been held that "the appeal is dismissed. The award of compensation (Rs.6,55,410/- with interest at 12% per annum from the date it became due) in favour of the dependants of the deceased is confirmed." But, the learned Tribunal has not granted any interest along with award.



9. It was also contended that as per the provision of Section 4 (a) (3) of E.C. Act as well as settled principle of law made by the Supreme Court that the claimants are entitled to get compensation along with interest @ 12% P.A from the date of accident till realization. To that effect, learned counsel for the review petitioners relied on certain judgments of the Supreme Court i.e. in *Saberabibi Yakub Bhai Shaikh & others-vrs.-N.I.Co.*¹, *North East Karnataka Road Trans. Cop. -vrs.-Sujatha*², *Shantilata Sethy & another -v/s- N.I.A Co.*³, *Shanti & 7 others-v/s- N.I.Co.*⁴ and *Kamal Dev Prasad -v/s-Mahesh Forge*⁵ and of this Court in *D.M, ICICI, Lombard, GIC -v/s- Ashalata Barik & Anr. (Orissa)*⁶.
10. In such view of the matter, it was submitted that the judgment dated 12.12.2025 passed in above-mentioned F.A.O may be reviewed and considering the Cross Objection filed by the Respondents Nos.1 to 3 in the above appeal may grant interest @ 12% P.A from the date of accident till the payment of compensation before the Commissioner.
11. This Court has heard the submissions made by the learned counsel for the Parties and also carefully perused the evidence on record. At the outset, it is necessary to delineate the scope of jurisdiction exercised by this Court under Section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure, 1908. The power of review is not an appellate power

¹ 2014(1) T.A.C-385 (SC)

² 2018(4) T.A.C-673 (SC)

³ 2022 (1) T.AC-378 (SC)

⁴ 2025 (1) T.A.C-741 (SC)

⁵ 2025 (2) T.A.C-789 (SC)

⁶ 2025(11) OLR 638



in disguise, it is a limited jurisdiction, circumscribed by well-defined parameters. A review can be entertained only upon discovery of new and important matter, error apparent on the face of the record, or for any other sufficient reason analogous thereto. It is equally well settled that an error which requires elaborate argument or reappreciation of evidence does not fall within the ambit of review jurisdiction.

12. In the present case, however, the foundation of the review petition rests not on a re-argument of the merits of the appeal but on an omission which goes to the very completeness of the adjudicatory process. The review petitioners have specifically contended that though a cross-objection had been duly filed seeking grant of statutory interest at the rate of 12% per annum from the date of accident, the same was not adverted to or adjudicated upon while disposing of the FAO.

13. This Court finds substance in the said contention. A perusal of the judgment dated 12.12.2025 reveals that while the appeal was dismissed and the award of compensation was confirmed, there is no independent consideration or determination of the cross-objection preferred by the claimants. The omission to deal with a duly instituted cross-objection is not a mere irregularity but it constitutes an error apparent on the face of the record. Adjudication of an appeal necessarily encompasses consideration of all issues raised by the parties, including cross-objections which are in the nature of an independent appeal.

14. The legal position in this regard is well settled. A cross-objection, once filed under Order XLI Rule 22 CPC, assumes the character of a substantive right of appeal. The Court is under an obligation to



adjudicate the same irrespective of the fate of the main appeal. Failure to do so results in a partial and incomplete adjudication, thereby attracting the jurisdiction of review.

15. Further, the claim for interest under Section 4-A(3) of the Employees' Compensation Act is not discretionary but flows from the statutory mandate. The provision embodies a beneficial object, ensuring that dependants of a deceased workman are not deprived of timely financial relief. The consistent judicial pronouncement of the Supreme Court has affirmed that such interest ordinarily runs from the date the compensation becomes due, which, in the context of death, has been interpreted to mean the date of accident.
16. In the judgment sought to be reviewed, though there is a reference to interest at 12% per annum "from the date it became due," the same appears to have been recorded without reconciling it with the actual award of the Commissioner, who had not granted such interest. This incongruity further reinforces the existence of an apparent error, necessitating correction in exercise of review jurisdiction.
17. The omission to adjudicate the cross-objection has thus resulted in denial of consideration of a statutory entitlement claimed by the review petitioners. Such omission strikes at the root of procedural fairness and cannot be allowed to persist. The review jurisdiction, though limited, is precisely designed to correct such patent errors and to ensure that justice is not defeated by inadvertence or oversight.
18. In view of the aforesaid analysis, this Court is satisfied that the present case falls within the narrow confines of review jurisdiction. The non-



consideration of the cross-objection filed by the claimants constitutes an error apparent on the face of the record and amounts to sufficient reason warranting interference.

19. Accordingly, the judgment dated 12.12.2025 passed in FAO No.272 of 2016 is recalled to the limited extent of adjudication of the cross-objection filed by the claimant-Respondent Nos.1 to 3.

20. The review petition is thus **allowed in part**, and the matter shall be listed for hearing confined to the issue of grant of interest in accordance with law.

21. It is made clear that all other findings recorded in the judgment dated 12.12.2025 shall remain undisturbed.

(Dr. Sanjeeb K Panigrahi)
Judge

*Orissa High Court, Cuttack,
Dated the 17th April, 2026/*