



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**FAO No.479 of 2025**

(From the judgment dated 21<sup>st</sup> May, 2025 passed by the Commissioner for Employee's Compensation-cum-Joint Labour Commissioner, Bhubaneswar in E.C. Case No.12 of 2019)

***The Manager, Legal (Claims)*** ..... ***Appellant***  
***M/s. Magma General Insurance***  
***Co.Ltd, BBSR***

*-versus-*

***Sabita Sahoo & Ors.*** ..... ***Respondents***

Advocate(s) appeared in this case:-

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For Appellant : Mr. A.A.Khan, Advocate

For Respondents : Mr. R.C.Behera, Advocate

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**CORAM: JUSTICE B.P. ROUTRAY**

**JUDGMENT**  
***26<sup>th</sup> February 2026***

**B.P. Routray, J.**

1. Heard Mr. A.A.Khan, learned counsel for the Insurer-Appellant & Mr. R.C.Behera, learned counsel for the claimant-Respondents.

2. Present appeal by the Insurer-Appellant is directed against impugned judgment dated 21<sup>st</sup> May, 2025 of the Commissioner for Employee's Compensation-cum-Joint Labour Commissioner,



Bhubaneswar in E.C. Case No.12 of 2019, wherein compensation to the tune of Rs.10,67,212/- has been granted along with interest @12% per annum with effect from the date of filing of the claim application on account of death of the deceased in the accident dated 2<sup>nd</sup> July 2019 during course of his employment as a driver of Truck bearing registration No.OR-19-5899.

3. It is admitted that the deceased employee died in course of his employment as the driver of Truck bearing registration No.OR-19-5899. There is no dispute about such death of the deceased as driver of the Truck on 3<sup>rd</sup> July 2019.

4. Mr. Khan, learned counsel for the Appellant submits that the deceased, as per the statement made in the claim application, was getting a sum of Rs.10,000/- per month as his remuneration and therefore, the income to the extent of Rs.13,089/- as accepted by the Commissioner for determining the compensation amount is grossly illegal. It is further submitted by Mr. Khan that the age of the deceased has also been taken as 47 years instead of 52 years. On these scores, the Insurer has challenged the impugned award.



5. It is seen from record that though a monthly remuneration of Rs.10,000/- have been averred in the claim application, but the wife of the deceased in course of her examination has admitted that the deceased was getting Rs.15,000/- per month. Similar is the version of helper of the Truck (P.W.2), who worked along with the deceased. The owner-Respondent No.5 has also admitted in his written statement before the Commissioner that the deceased was being paid a sum of Rs.15,000/- per month, excluding food, as remuneration.

6. The Insurer has examined one witness from their side and he has only spoken about the permit and validity of insurance of the offending vehicle. He has never said anything regarding remuneration or income of the deceased driver. Further, the Insurer has not produced any material to counter such contention of the Claimants that the deceased was getting Rs.15,000/- per month as remuneration, as admitted by the employer.

7. In the given facts of the present case where it is admitted by the employer that the deceased was paid a monthly remuneration of Rs.15,000/- which has been supported by the Claimant as well as the other employee (P.W.2) under same employer, no reason is left for the Commissioner to reduce the same to Rs.13,089/-. However, in absence



of any challenge advanced by the Claimants, this Court is not inclined to enter into such aspect. Thus, no ground is seen to interfere such finding of the Commissioner in arriving the monthly income of the deceased at Rs.13,089/- for the purpose of computing compensation amount.

8. It is seen from the copy of the driving license that the date of birth of the deceased is on 25<sup>th</sup> February 1972. Therefore, the determination of age of the deceased on the date of accident as 47 years is found without any flaw. Accordingly, the age factor as determined by the Commissioner to compute the compensation amount is seen without any illegality or mistake. The learned Commissioner by applying the age factor as 163.07 has thus arrived at the amount of Rs.10,67,212/- as the compensation amount to be paid along with interest @ 12% per annum from the date of accident.

9. In view of the discussions made above, no merit is seen in the appeal to interfere with the impugned award, which is accordingly confirmed. However, the penalty and penal interest as directed in the impugned award is waived.

10. A copy of the D.L. is kept on record.



**11.** At this stage, it is submitted by Mr. Behera, learned counsel for the Claimants that claimant-Respondents 3 & 4 namely, Jagabandhu Sahoo and Gelha Sahoo expired in the meantime. He has filed a memo to that effect. Accordingly, it is further observed that the compensation amount may be disbursed among claimant-Respondents No. 1 & 2 namely, Sabita Sahoo and Silu Sahoo in such proportion to be decided by the learned Commissioner.

***(B.P. Routray)***  
***Judge***

*S.Das, Sr.Steno*