

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.776 of 2014

(From the judgment dated 27th June, 2014 passed by the learned Commissioner for Employees Compensation-cum-Deputy Labour Commissioner, Cuttack in W.C. Case No.218-D/2007)

Prasanna Kumar Choudhury ***Appellant***

-versus-

The Chairman, Paradip Port Trust ***Respondent***

Advocate(s) appeared in this case:-

For Appellant : Mr. Raghunath Biswal, Advocate

For Respondent : Mr. Aditya Mishra, Advocate along with
Mr. P.S. Acharya, Advocate

CORAM: JUSTICE B.P. ROUTRAY

JUDGMENT

15th December, 2023

B.P. Routray, J.

1. Present appeal by the injured-claimant is directed against order dated 27.6.2014 passed by the Commissioner for Employee's Compensation-cum-Deputy Labour Commissioner, Cuttack in W.C. Case No.218-D/2007, wherein deduction of Rs.2,62,870/- from the compensation amount has been directed towards receipt of previous amount.

2. The claimant-Appellant was serving under Paradip Port Trust and in course of his employment the accident took place on 28.04.2005 resulting sustenance of 70% loss of earning capacity.

3. The Appellant filed Workmen Compensation Case No.218-D/2007 before the learned Commissioner and upon receipt of notice, the employer-Respondent (Paradip Port Trust) deposited a sum of Rs.2,62,870/- towards compensation in terms of Section 4(1) of the Employees Compensation Act, 1923 (hereinafter stated as "the Act"). Thereafter the same was paid to the claimant on 9.5.2008. However, by objecting to the compensation amount so paid, the claimant contested the case and finally the learned Commissioner awarded Rs.3,75,528/- in terms of Section 19 of the Act. Keeping in view the amount paid to the claimant, the learned Commissioner directed the Respondent to deposit balance amount along with interest @12% per annum.

4. The contention of the Appellant is that such deduction of the amount already paid to him is illegal and he should be paid with entire compensation amount as directed by the learned Commissioner.

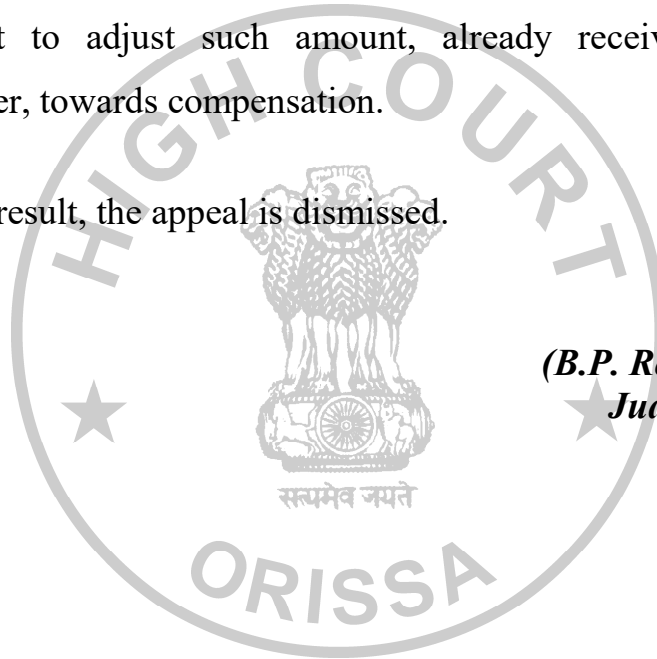
5. Section 8 read with Section 4(1) of the Act makes it clear for deposit of the compensation amount by the employer before adjudication. Law is well settled that deposit of such amount towards compensation in terms of Section 8 of the Act is liable for deduction. It is also desirable under the law that compensation should be paid from the date of accident. In the case of *Pratap Narain Singh Deo v. Srinivas Sabata, 1976 (1) SCC 289* and *Kerla State Electricity Board*

v. Valsala K., (1999) 8 SCC 254, it has been held by the Supreme Court that the payment of compensation would fall due from the date of accident. Therefore, it is desirable on the part of the employer to deposit the undisputed amount upon receipt of the notice.

6. In the instant case, it is not that the earlier amount was paid independently, but it is admitted that the same has been paid through the Commissioner. Therefore, by operation of the provisions contained under Section 8 of the Act, no further case is made out in favour of the claimant not to adjust such amount, already received from the Commissioner, towards compensation.

7. In the result, the appeal is dismissed.

(*B.P. Routray*)
★ Judge



B.K. Barik/Secretary