

A

AJAYA KUMAR DAS & ANR

v.

DIVISIONAL MANAGER & ANR

(2022 gi Civil Appeal No. 447)

B

JANUARY 24, 2022

**[DR. DHANANJAYA Y CHANDRACHUD AMASUNG
DINESH MAHESHWARI, JJ.]**

C *Workmen's Compensation Act, 1923: s. 4A* –Matam-chuppagi oina
hakchanggi saruk 85% youna soinairaba sinmi amada, mahakna thengnariba
cheitheng adugi pipham thokpa senphamdugi (*compensation*) mathakta sendoisu
pibigadaba - *Compensation* pigadouriba (*insurer*) aduna waphamdugi mayokta onna-
teinana wayetlakpa – *High Court* na wakat adu matam helle, khannaningai oidre
D haina thupchillaba matungda; wakatliba kangbuna chumnagi matamgi oiba sendoi
nattana, piriba *compensation* gi sendoi oinadi phangpham leite haina yathang pikhi –
Wakat aduda, warep loukhi: *High Court* ki wayel adu mayek sengde – *Compensation*
pigadouriba (*insurer*) adugi, khannabagi matam henkhre haibagi yumphamda
pukhatkhtuna wakat adu kakthatkhiba loinana, *compensation* gi sendoi pinaba
khannabagi matangda *High Court* aduna khut thingjinbagi thoudok amata
mamangda leikhidri – *High Court* adugi asoiba aduna sinmi amabu magi loinabiga
loinana (*Supreme*) *Court* asi youna laknaba maram oihalli – maram aduna, pigadaba
E *compensation* amadi sendoi adugi mathakta, *High Court* ki warepki mayokta
waktatlakliba kangbuda, changkhiba chadingsing kupkhatchanaba, lupa 50,000/-
pigadabani - - Chading.

***High Court* warepki mayokta tharakpa wakat, (*Supreme*) *Court* na ayaba piri**

WAREP LOURE: 1.1 *High Court* adugi yathang adu mayek sengde.
Compensation pigadouriba (*insurer*) aduna matam henkhre haibagi matangda
F pukhatlakkhiba wakat adu kakthatle loinana, *compensation* gi sendoi pibagi
khannabagi matangda *High Court* aduna khut thingjinbagi thoudok amata
Workmen's Compensation Act 1923 gi makhada pangthokpa leikhidri. *High Court*
adugi asoiba aduna sinmi amabu magi loinabiga loinana (*Supreme*) *Court* asi youna
laknaba maram oihalli. *Accident* adu 2000 da thokkhiba oirabasu, houjik louriba
warep asikhaktana chatharakliba *case* asigi aroiba oigani. *High Court* asina wathok
asigi achum-chumdagi matangdasu aranba tourammi. Thabak nekliba (*employer*)
aduna *compensation* adu pipham thokpa numittagi tha amagi manung phaobada
G pibidrabadi, *Commissioner* aduna *employer* aduda *Reserve Bank of India Act, 1934*
gi *Schedule II* gi makhada leiriba *bank* singna sel puthokpada louriba sendoigi
changdagidi hendana, 12% natraga henna wangba sendoi pinada yathang
pigadabani haina 1923 *Act* ki *Section 4A* da yana-warol yaori.

H

Accident thokkhiba numittagi paraga, pigadaba *compensation* adugi sendoi pigadabani. Maram aduna, sendoi pinaba thokkhiba order adu *High Court* na manghankhibada *law* gi oiba yumpham amata yaode, loinana hairiba yathang adu chatnahandana thamle. *Commissioner* na thokkhiba, *compensation* piba amadi sendoisu pinaba order adu makha tana chatnahalle. [Paras 5, 6] [470-G-H; 471-A-B, D-F]

A

B

1.2 *Notice* piraba phaobada chathariba *case* asigidamak ahanba *respondent* asina *Court* ta Judge gi mamangda youraktrabas, mahakna *High Court* ta matam helle haibagi wakat ama tharuraba matungda pirakthiba tasengna lallaba yathang amana maram oiduna *appellant* asibu (*Supreme*) *Court* ta wayel toubiyu haina lak-hallibanina, changkhria sel adu hanjinbiba mathou tai. *Insurer* aduna matam hendokkhraba wakat amani haiduna *High Court* ta wayet ama tharammi. Matik chana maral-mathum leiraba *insurance company* amana, mahakna ngammi haibagi khudongchaba louraga achumbabu natheihalli. Asigumba lallong asi touhalloidabani. Pigadaba *compensation* amadi sendoi adugi mathakta, changkhiba sel phukkatnabagidamak, *High Court* ki wayel singnaduna wakatlariba mioi asida lupa 50,000/- amasu pigadabani. [Para 7][471-F-G; 472-A]

C

Saberabibi Yakubhai Shaikh v. National Insurance Co. Ltd. (2014) 2 SCC 298 : [2014] (1) SCR 303; Oriental Insurance Co. Ltd. v. Siby George (2012) 12 SCC 540 : [2012] (6) SCR 1079; P. Meenaraj v. p. Adigurusamy & Anr. Civil Appeal 2022 gi No. 209, 6 January 2022 da loukhiba warep – referred to.

E

Case Law Reference

[2014] (1) SCR 303	<i>referred to</i>	<i>Para 5</i>
[2012] (6) SCR 1079	<i>referred to</i>	<i>Para 5</i>

F

CIVIL APPELLATE JURISDICTION: 2022 gi Civil Appeal No. 447 2018 gi Review Petition No. 84 gi Judgement amadi Order, tarikh 08.02.2019, High Court of Orissa at Cuttack tagi.

G

Chitta Ranjan Mishra, Neeraj Srivastava, Ronak Baid, Ms. Neetu Rathore, Ms. Shalu Sharma, *Advs. Appellant* singgidamak.

H

- A *Court* ki wayel adu
DR. DHANANJAYA Y CHANDRACHUD, J. na pikhi
 1. *Leave granted.*
 2. 2018 gi FAO No. 358, tarikh 11 April 2018 da *High*
- B *Court of Orissa* gi *Single Judge* na takhiba wayel amada wakat asi lakhibani.
 3. Ahanba *appellant* asi *Truck, Registration No OAX 2764* amada sinmi ama oina thabak surammi loinana anisuba *respondent* na mahakpu leingoi hapkatpa amadi thadhabada sijinnarammi. 5 June 2000 da *Truck* adu *accident* ama thoklammi, maduda ahanba *appellant* adugi mabuk amadi *kidney* da
- C mapham kaya thokna asok-apan nanglammi. Mangonda *surgery* tourammi amadi 22 June 2000 da *hospital* dagi putharammi. *Compensation* phangnabagidamak *Workmen compensation-cum-Assistant Labour Commissioner, Odisha* da wakat thakhi. Wakat adu tarikh 24 May 2016 gi *order* amana ayaba pikhi. Pukhatkhriba waphamdi, ahanba *appellant* adu yengba yaba layenglabasu 85% youna matam-chuppagi soinairaba mi ama
- D oire. Maduna maram oiraga mahakna sel tanba ngambagi pangalsu 100% hantharagani. Mahakna lupa 2100/- thagi chaga oina phanglambanina, apunba mangonda pigadaba *compensation* asi lupa 2,78,926/- oire (2100 gi 60% (thagi chaga) x 221.37 (mahak masagi chahi 22 subabu paraga) x 100 (senthok mangkhiba)). *Labour Commissioner* aduna *compensation* adu
- E *accident* thokkhiba numittagi paraga sel piba (*deposit*) numit phaobagi sellepki mathakta chahigi sendoi 12% hapkadabani haina yathang pikhi.
 4. *Insurer* su oiriba ahanba *respondent* aduna numit 619 thengthakhiba wakat amani haiduna 2018 gi FAO No 358 gi wayet ama *High Court* aduda lankhatkhi. Maram khangdana numit 619 thengthana lakpa
- F wakat amabu phajana yenghoudre haina *High Court* aduna tarikh 11 April 2018 gi yathang amana wakat adu kakthatkhi. Adubu, *appellant* singna phangdriba sendoi nattana *compensation* gi sendoidi phangba yaro haina *High Court* aduna yathang pikhi. *High Court* ki yathang adu amuk hanna khannabinaba haijakhi, adubu ahanba *appellant* na mangonda pipham thokpa senpham khudingmak, phangkhidriba sendoiga konnana loukhrabani
- G haiduna wakat adu tarikh 8 February 2019 da kakthatkhi.
 5. *High Court* ki wayel adu mayek sengde. *Compensation* pigadouriba (*insurer*) adugi, khannabagi matam henkhre haibagi yumphamda pukhatkhiba wakat adu kakthatkhiba loinana, *compensation* gi sendoi pinaba khannabagi matangda *Workmen's Compensation Act 1923* ki makhada *High Court* aduna khut thingjinbagi thoudok amata mamangda leikhidri. Wakat adubu matam henkhre haiduna kakthatkhiba matamda, *High Court* aduna nunggi oiba achumbada yumpham oiraga pelhanbadi ngamkhidre. *High Court* adugi asoiba aduna sinmi amabu magi loinabiga loinana (*Supreme*) *Court* asi youna
- H laknaba maram oihalli.

Accident adu 2000 da thokkhiba oirabasu, houjik louriba warep asikhaktana chatharakliba *case* asigi aroiba oigani. Chummi haina lounariba wapham asi arambani haibadu utnabagidamak; High Court aduna nunggi oiba achumbadasu aranba toukhi. Thabak nekliba (*employer*) aduna *compensation* adu pipham thokpa numittagi tha amagi manung phaobada pibidrabadi, Commissioner aduna employer aduda *Reserve Bank of India Act, 1934* gi *Schedule II* gi makhada leiriba *bank* singna sel puthokpada louriba sendoigi changdagidi hendana, 12% natraga henna wangba sendoi pinada yathang pigadabani haina 1923 Act ki *Section 4A* da yana-warol yaori. *Accident* thokkhiba numittagi paraga *compensation* pigadabani haina *Court* asina **Oriental Insurance Co. Ltd. v. Siby George**² da takhiba warep amada miyeng thamlaga **Saberabibi Yakubhai Shaikh v. National Insurance Co. Ltd.**¹, dasu *Court* asina *compensation* gi sendoi adu *accident* thokkhiba numittagi pigadabani; sendoi pinaba wakatlapada takhiba wayelgi numittagi pagadaba natte haina *Court* asina warep loure. Makhatana, **P. Meenaraj v. p. Adigurusamy & Anr.**³ gi anouba warep amadasu *Court* asina amuksu hanna *accident* thokkhiba matung numit 30 ni hellaba matungda sendoi pigadabani haiba wakat adu kakthatlaga *Court* ta haijarakliba mioi asi *accident* thokkhiba numittagi sendoi phanggadabani haikhi. Maram aduna, Sendoi pinaba thorakhiba *order* adubu *High Court* aduna kakhattuna manghankhiba aduda *law* gi oiba yumpham amatta yaode.

6. Mathakki maramsing asidagi, sendoi pinaba thokkhiba *order* adubu kakhattuna manghankhiba *High Court* ki tarikh 11 April 2018 gi yathang adu eikhoina chatnahandana thamle. *Additional Labour Commissioner-cum-Commissioner, Workmen Compensation* aduna thokkhiba *compensation* amadi sendoi pibagi *order* adu amuk hinggattuna chatnahalle.

7. *Notice* piraba phaobada chathariba *case* asigidamak ahanba *respondent* asina *Court* ta *Judge* gi mamangda youraktrabasu, mahakna *High Court* ta matam helle haibagi wakat ama tharuraba matungda pirakhiba tasengna lallaba yathang amana maram oiduna *appellant* asibu (*Supreme*) *Court* ta wayel toubiyu haina lak-hallibanina, changkhria sel adu hanjinbiba mathou tai. *Insurer* aduna matam hendokkhraba wakat amani haiduna *High Court* ta wayet ama tharammi. Matik chana maral-mathum leiriba *insurance company* amana, mahakna ngammi haibagi khudongchaba louraga achumbabu natheihalli. Asigumba lallong asi touhalloidabani. Pigadaba *compensation* amadi sendoi adugi mathakta, changkhiba sel phukkatnabagidamak,

¹(2014) 2 SCC 298

²(2012) 12 SCC 540

³*Civil appeal No 209, 2022* gi, 6 January 2022 da warep loukhiba

A *High Court* ki wayel singnaduna wakatlariba mioi asida chayol marigi manungda lupa 50,000/- amasu *compensation* gi saruksing amadi pithoktana leiriba lemhouriba sendoiga loinana pigadabani.

8. Hanna loukhiba *lower court* ki wareppu yengsinbiyu haibagi wakat asi mathakki phibamsing asida loisille.

9. Warep loudriba atoppa wakat leiragasu louriba warepsing asida loisille.

Nidhi Jain

Atoppa kanagumbana
Court ki warep asida
amuk hanna yengsinbinaba
waktlakpasu yagani