Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 1572 of 2007

Appellant :- The New India Assurance Company Ltd.
Respondent :- Smt. Virawati And Others
Counsel for Appellant :- S.C. Srivastava

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the appellant.

2. The present appeal has been filed by the appellant against the award dated 30.03.2007 passed by the Commissioner, Workmen's Compensation/Assistant Labour Commissioner, Moradabad in Case W.C.A. No.36 of 2006

3. Challenging the said award, learned counsel for the appellant has contended that the finding of the Commissioner that the deceased was employed as labour/helper on the offending truck i.e. H.R. 55/3506 is perverse and illegal inasmuch as the owner of the offending truck filed written statement and denied the employment of the deceased. Accordingly, it is submitted that the Commissioner has erred in entertaining the claim petition and passing the award against the appellant Insurance Company. It is lastly urged that the Commissioner has erred in law in awarding the interest.

4. Be that as it may, the employment was proved by the claimant-respondent inasmuch as the claimant appeared before the Commissioner and stated on oath that the deceased was employed on the offending truck.Though, the owner has denied the factum of employment in the written statement but the owner did not appear before the Commissioner and proved the assertions made in the

written statement.

5. Since, there was no evidence on record in rebuttal to the testimony of claimant-respondent proving employment of the deceased on the offending truck, therefore, finding of the Commissioner on the issue of employment is based upon proper appreciation of facts and evidence on record, and does not warrant any interference by this Court.

6. So far as the submission of learned counsel for the appellant with respect to interest is concerned, the said contention is also misconceived inasmuch as under Section 4-A of the Workmen's Compensation Act, the Commissioner has power to grant interest. In such view of the fact, the contention advanced in respect to interest is also misconceived, and is rejected.

7. Thus, for the reasons given above, the appeal lacks merit and is, accordingly, **dismissed** with no order as to costs.

Order Date :- 28.10.2023
NS

Digitally signed by :-
NITIN KUMAR
High Court of Judicature at Allahabad