

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 675 of 2004

Appellant :- Oriental Insurance Company Limited

Respondent :- Smt. Ram Dai And Another

Counsel for Appellant :- Anubhav Sinha

Counsel for Respondent :- Virendra Singh Chauhan

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the appellant.
2. The present appeal has been filed by the appellant-insurance company challenging the award dated 19.01.2004 passed by Workmen Compensation Commissioner, Meerut in W.C.A. No.153/2003.
3. Challenging the award, learned counsel for the appellant has contended that the finding of the Commissioner on the issue of relationship of employer and employee between the deceased and owner of bus is perverse and against the record. It is further contended that the Commissioner has erred in fastening the liability upon the appellant insurance company despite that fact that cleaner was not covered under the insurance policy.
4. Be that as it may, so far as the issue with regard to relationship of employer and employee is concerned, the owner of the bus appeared before the Commissioner and admitted that factum of employment. In such view of the fact, the finding of the Commissioner regarding the relationship of employer and employee between the owner of the bus and deceased is finding of fact and is not liable to be interfered with in appeal.

5. So far as the issue of coverage of the deceased under the insurance policy is concerned, the record reveals that the insurance company did not take any plea in this regard in written statement nor proved the same by leading cogent evidence on record. In such view of the fact, the said contention cannot be raised for the first time in appeal.

6. The appeal under Section 30 of the Workmen Compensation Act would lie only on substantial question of law. In the instant case, no substantial question of law is involved, therefore, the appeal lacks merit and is accordingly **dismissed**.

Order Date :- 30.10.2023

R.S. Tiwari