IN THE HIGH COURT OF JHARKHAND AT RANCHI

M.A. No. 192 of 2023

The President, Jharkhand State Cricket Association through its Secretary Debasish Chakraborty, aged about 61 years, son of S.C. Chakraborty, working at HEC Township, Birsa Nagar, Dhurwa, P.O. and P.S. Dhurwa, District-Ranchi, PIN-834004 (Jharkhand)

..... … Appellant

Versus

1.Maizul Haque, son of late Md. Shafique

2. Khairun Nisha, wife of Md. Maizul Haque

Both residents of Maulana Azad Colony, Gali No. 5, C/O Mahtab Alam, Lowadih, P.O. and P.S. Namkum, District-Ranchi, Jharkhand

3. The C.E.O, M/s Valmont Structures India Private Limited, having its office at 2nd Floor, Pentagon IV Magarappata City, Hadapsar, P.O. and P.S. Hadapsar, District-Pune, PIN -411028-Maharashtra

4. Gulab Khan, son of late Tahir Hussain, resident of D.C. Sharma Compound, Beside Refugee Colony, Kanta Toli, P.O. Lower Bazar, P.s. Lower Bazar, District-Ranchi, PIN-834001.

..... … Respondents

With

M.A. No. 193 of 2023

The President, Jharkhand State Cricket Association through its Secretary Debasish Chakraborty, aged about 61 years, son of S.C. Chakraborty, working at HEC Township, Birsa Nagar, Dhurwa, P.O. and P.S. Dhurwa, District-Ranchi, PIN-834004 (Jharkhand)

..... … Appellant

Versus

1.Jahur @ Jahur Khan, son of late Nur Mohammad

2. Aftab Alam, son of Jahur @ Jahur Khan

Both residents of Kanta Toli, Purulia Road, Opposite Hotel Allina, P.O. Kanta Toli, P.S. Lower Bazar Angara, District-Ranchi, PIN-834001 (Jharkhand)

3. The C.E.O, M/s Valmont Structures India Private Limited, having its office at 2nd Floor, Pentagon IV Magarappata City, Hadapsar, P.O. and P.S. Hadapsar, District-Pune, PIN -411028-Maharashtra

4. Gulab Khan, son of late Tahir Hussain, resident of D.C. Sharma Compound, Beside Refugee Colony, Kanta Toli, P.O. Lower Bazar, P.s. Lower Bazar, District-Ranchi, PIN-834001.

..... … Respondents

With

M.A. No. 194 of 2023

The President, Jharkhand State Cricket Association through its Secretary Debasish Chakraborty, aged about 61 years, son of S.C.

Chakraborty, working at HEC Township, Birsa Nagar, Dhurwa, P.O. and P.S. Dhurwa, District-Ranchi, PIN-834004 (Jharkhand)

..... … Appellant

Versus

1.Savina Khatun, wife of Zasmuddin
2. Kalim Ansari, son of Zasmuddin Ansari

Both residents of village Salhan, P.O. Childag, .P.S. Angara, District-Ranchi

3. The C.E.O, M/s Valmont Structures India Private Limited, having its office at 2nd Floor, Pentagon IV Magarappata City, Hadapsar, P.O. and P.S. Hadapsar, District-Pune, PIN -411028-Maharashtra

4. Gulab Khan, son of late Tahir Hussain, resident of D.C. Sharma Compound, Beside Refugee Colony, Kanta Toli, P.O. Lower Bazar, P.s. Lower Bazar, District-Ranchi, PIN-834001.

..... … Respondents

With

M.A. No. 84 of 2024

M/s Valmont Structures India Private Limited having its office at Unit 203, 2nd Floor, Pentagon IV Magarappata City, Hadapsar, District-Pune, Maharashtra through its authorized signatory namely, Sachin Baburao Babar, aged about 39 years, son of Baburao Babar, resident of Flt No. 205, Sr. No. 13/2 14/3, Ujwal Paradise, Dhayari, P.O. Dhayari, P.S. Sinhgad Road, Pune City, District-Pune, Maharashtra-411041

..... … Appellant

Versus

1.Savina Khatoon, wife of Zasmuddin
2. Kalim Ansari, son of Zasmuddin Ansari
Both residents of village Salhan, P.O. Childag, P.S. Angara, District-Ranchi
3. Gulab Khan, son of late Tahir Hussain, D.C. Sharma Compound, Beside Refugee Colony, Kanta Toli, P.O. Lower Bazar, P.s. Lower Bazar, District-Ranchi,
4. The President, Jharkhand State Cricket Associations, office at HEC Township, Birsa Nagar, Dhurwa, P.O. and P.S. Dhurwa, District-Ranchi

With

M.A. No. 85 of 2024

M/s Valmont Structures India Private Limited having its office at Unit 203, 2nd Floor, Pentagon IV Magarappata City, Hadapsar, District-Pune, Maharashtra through its authorized signatory namely, Sachin Baburao Babar, aged about 39 years, son of Baburao Babar, resident of Flt No. 205, Sr. No. 13/2 14/3, Ujwal Paradise, Dhayari, P.O. Dhayari, P.S. Sinhgad Road, Pune City, District-Pune, Maharashtra-411041

..... … Appellant

Versus

1.Jahur @ Jahur Khan, son of late Nur Mohammad
2. Aftab Alam, son of Jahur @ Jahur Khan
Both residents of Kanta Toli, Purulia Road, Opposite Hotel Allina, P.O.

Kanta Toli and P.S. Lower Bazar District-Ranchi
3. Gulab Khan, son of late Tahir Hussain, D.C. Sharma Compound, Beside Refugee Colony, Kanta Toli, P.O. Lower Bazar, P.s. Lower Bazar, District-Ranchi,
4. The President, Jharkhand State Cricket Associations, office at HEC Township, Birsa Nagar, Dhurwa, P.O. and P.S. Dhurwa, District-Ranchi

..... … Respondents

With

M.A. No. 86 of 2024

M/s Valmont Structures India Private Limited having its office at Unit 203, 2nd Floor, Pentagon IV Magarappata City, Hadapsar, District-Pune, Maharashtra through its authorized signatory namely, Sachin Baburao Babar, aged about 39 years, son of Baburao Babar, resident of Flt No. 205, Sr. No. 13/2 14/3, Ujwal Paradise, Dhayari, P.O. Dhayari, P.S. Sinhgad Road, Pune City, District-Pune, Maharashtra-411041

..... … Appellant

Versus

1. Maizul Haque, son of late Md. Shafique
2. Khairun Nisha, wife of Md. Maizul Haque
Both residents of Maulana Azad Colony, Gali No. 5, C/O Mahtab Alam, Lowadih, P.O. and P.S. Namkum, District-Ranchi, Jharkhand
3. Gulab Khan, son of late Tahir Hussain, D.C. Sharma Compound, Beside Refugee Colony, Kanta Toli, P.O. Lower Bazar, P.s. Lower Bazar, District-Ranchi,
4. The President, Jharkhand State Cricket Associations, office at HEC Township, Birsa Nagar, Dhurwa, P.O. and P.S. Dhurwa, District-Ranchi

---

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellant :Mr. Nipun Bakshi, Advocate
Mr. Shubham Sinha, Advocate
Mr. Mrinal Singh, Advocate
(in MA. Nos. 192, 193, 194/2023)
Mr. Indrajit Sinha, Advocate
Mr. Ankit Vishal, Advocate
(in M.A. Nos. 84, 85, 86/2024)

For the Resp. No.3 : Mr. Indrajit Sinha, Advocate
Mr. Ankit Vishal, Advocate
(in M.A. Nos. 192, 193, 194/2023)

For the Resp. No.4 : Mr. Nipun Bakshi, Advocate
Mr. Shubham Sinha, Advocate
Mr. Mrinal Singh, Advocate
(in M.A. Nos. 84, 85, 86/2024)

For the Resp. No. 4 & Resp. No.3 : Mr. Asif Khan Khan, Advocate
Mr. Mohd, Zubair Khan, Advocate
(in MA. Nos. 192, 193, 194/2023 &

M.A. Nos. 84, 85, 86 of 2024)

For the Resp. Nos. 1 and 2 : Mr. Nikhil Ranjan, Advocate
Mr. Ishan Ashism, Advocate
(in all the cases)

.....

18/ 02.07.2026: Heard Mr. Nipun Bakshi, Mr. Indrajit Sinha, Mr. Asif Khan and Mr. Nikhil Ranjan learned counsel for the appellant and learned counsel for the respondents 1 & 2, 3 and 4 in respective cases.

2. Three compensation cases have been filed pursuant to death of three workmen and in view of that three W.C cases have been filed and three orders have been questioned by Jharkhand State Cricket Association in M.A. No. 192 of 2023, M.A. No. 193 of 2023 and M.A. No. 194 of 2023 and three orders have been questioned by M/s Valmont Structures India Private Limited in M.A. No. 84 of 2024, M.A. No. 85 of 2024 and M.A. No. 86 of 2024.

3. M.A. No. 192 of 2023 has been filed challenging the order dated 02.03.2023 passed by the learned Commissioner, Employees' Compensation-cum-Presiding Officer, Labour Court, Ranchi in W.C. Case No. 25 of 2016 awarding compensation of Rs. 15,67,639 for death of Md. Ifthekhar.

4. M.A. No. 193 of 2023 has been filed challenging the order dated 02.03.2023 passed by the learned Commissioner, Employees' Compensation-cum-Presiding Officer, Labour Court, Ranchi in W.C. Case No. 24 of 2016 awarding compensation of Rs. 15,67,639 for death of Md. Shahbaz Ansari @ Shahzada Khan.

5. M.A. No. 194 of 2023 has been filed challenging the order dated 02.03.2023 passed by the learned Commissioner, Employees'

Compensation-cum-Presiding Officer, Labour Court, Ranchi in W.C. Case No. 26 of 2016 awarding compensation of Rs. 15,67,583/- for death of Alim Ansari.

6. M/s Valmont Structures India Private Limited has challenged aforesaid three orders in M.A. No. 84 of 2024, M.A. No. 85 of 2024 and M.A. No.86 of 2024.

7. The substantial question of law has been formulated by order dated 16.04.2024 in M.A. No. 192 of 2023, M.A. No. 193 of 2023 and M.A. No. 194 of 2023 to decide these three appeals which are as under:-

> *"a. Whether the Appellant is liable to pay compensation as a 'principal applying the provisions of Section 12 of the Employees' Compensation Act, 1923 without any averment in the Claim Petition and in the absence of any evidence or assertion by the Claimants in the course of proceedings in the case?*
> *b. Whether the order imposing liability of payment of compensation on the Appellant is presumptuous and contrary to evidence and material on record which conclusively proves that the accident occurred during electrical work which is directly the trade and business of M/s. Valmont Structures India Private Limited and not JSCA?*
> *C. Whether the impugned order is illegal and unsustainable as the Appellant has not been indemnified by the immediate employer and sub-contractor though M/s. Valmont Structures India Private Limited (Respondent No.3) had already appeared in the case and there was no justifiable reason to presume that the actual employer would be unable to discharge its legal obligation to pay compensation as determined by the learned Labour Court?*
> *d. Whether the Learned Commissioner has also failed to examine the true import of Section 12(3) of the Employees' Compensation Act, 1923 which provides discretion to recover compensation from the immediate employer/contractor instead of the Principal employer?"*

8. The substantial question of law has been further formulated by order dated 18.06.2026 in M.A. No. 84 of 2024, M.A. No. 85 of 2024 and M.A. No. 86 of 2024 to decide these three appeals which are as under:-

"(1). As to whether there exists any employer and employee relationship or not?

9. Mr. Nipun Bakshi, learned counsel for the appellants for Jharkhand State Cricket Association (hereinafter referred to J.S.C.A) in the aforesaid appeals submits that claim cases have been filed claiming for compensation before the Presiding Officer, Labour Court, Ranchi alleging that they being the dependents of the deceased employee, namely, Md. Ifthekhar, dependents of the deceased employee namely, Md. Shahbaz Ansari, Shahzada Khan and dependents of the deceased employee namely, Alim Ansari are entitled to receive compensation for their death occasioned in the course of performance of his employment as an Electrical Technician with the Respondent No. 3- M/s. Valmont Structures India Private Limited. The claimants are the parents and brother respectively of deceased employee in respective W.C. Cases. He submits that it has been alleged that on 07.09.2016, at about 2:30 pm, three Electrical Technicians, namely, (a) Md. Ifthekhar, aged about 21 years, Son of Maizul Haque; (b) Shahbaz Ansari @ Shahbaz Ansari @ Shahzada Khan, aged about 22 years, Son of Md. Jahur @ Jahur Khan and; (c) Alim Ansari, aged about 23 years, Son of Zasmuddin Ansari, were working and repairing the floodlights in the Dhurwa Cricket Stadium. All the three Technicians were lifted on a trolley to carry out the repair work at the height of about 60 meters without adequate safety equipment. The trolley broke resulting in fall of all the three Technicians who died on spot and pursuant to that Dhurwa P.S. Case No. 249 of 2016 was registered corresponding to G.R. No. 5262 of 2016 under Sections 304/34 of the

Indian Penal Code, 1860 and section (56) Labour Safety Act. The First Information Report was registered only against Gulab Khan and the Assistant Manager of Valmont Structures India Private Limited. He submits that there is not even any indirect reference regarding any involvement of any official of the J.S.C.A. By way of referring F.I.R. Mr. Bakshi, learned counsel for the appellants-J.S.C.A submits that there is no claim against this Appellant. There is no averment in the Claim Application regarding any direct or indirect employment with Jharkhand State Cricket Association ['JSCA'] and there is no accusation regarding involvement of any official of JSCA and there is categorical statement that the deceased employee was engaged by Gulab Khan who was deputed as a Contractor of M/s. Valmont Structures India Private Limited and to buttress this argument, he draws the attention of the Court to claim application filed by the claimants who are parents and brother respectively of the deceased. He next submits that M/s. Valmont Structures India Private Limited in these appeals appeared and contested the claim of the Applicants who are Respondents No. 1 & 2 in these appeals however respondent no.4 namely, Gulab Khan never appeared despite valid service of notice and the proceeding against Gulab Khan claim application proceeded ex-parte. He next submits that M/s. Valmont Structures India Private Limited has filed written statement denying the relationship of employer-employee with the deceased employee and the statement was also made that it has only supplied equipment and supervised the installation but had not carried out installation itself and in view of that M/s. Valmont Structures India Private Limited was not liable for payment

of any compensation however, M/s. Valmont Structures India Private Limited has admitted that the entire work was under its supervision and control and, therefore, the repudiation of the claim and refusal to pay any compensation by the M/s. Valmont Structures India Private Limited is not proper. He further submits that however, the dependents of the three deceased workers have consistently stated that they were employed as Technician by M/s. Valmont Structures India Private Limited. He next submits that for four years the claim application was pursued by the claimants. Maizul Haque the father of the deceased worker has deposed before the learned Commissioner that he is the dependent father of the deceased employee-Md. Ifthekhar. He has stated that Md. Ifthekhar was the son of the Applicant no.1 in the claim case and was working as an Electrical Technician in M/s. Valmont Structures India Private Limited. He was conducting repair work under the direction of M/s. Valmont Structures India Private Limited which has been deposed in paragraph 3 of the deposition. He has also stated in para 4 of the deposition that the death of Md. Ifthekhar occurred while he was working for M/s. Valmont Structures India Private Limited. In para 6, he has stated that the deceased employee was paid Rs. 10,000/- per month by M/s. Valmont Structures India Private Limited and was also paid a Daily Allowance of Rs. 100/-. Maizul Haque himself took the stand and proved the case. Another co-employee Sajid Khan was also examined by the Applicants, and he has stated that he is the eyewitness to the unfortunate accident. He has also reiterated that all the three victims were engaged by the M/s. Valmont Structures India Private Limited. In rest of two W.C. Cases, the witnesses

have stated in the same manner. In this background Mr. Bakshi, learned counsel for the appellants-J.S.C.A in the aforesaid appeals submits that after adducing such evidence, the applicants preferred an application for impleading JSCA as Opposite Party which was allowed by order dated 23.12.2021. He submits that even said petition was allowed, however, the claim application was not amended by the applicants to include any claim against JSCA nor did not they adduce any additional evidence ascribing any role or responsibility of the officials of JSCA. He further submits that in the aforesaid W.C. Cases the appellant-J.S.C.A has not appeared as notice was not brought before the concerned authorities resulting in the case being proceeded in the Labour Court ex-parte against this Appellant-J.S.C.A and the learned Labour Court vide order dated 27.04.2022 had decided to proceed ex-parte against this Appellant-JSCA and on 09.06.2022, the evidence for the applicant was closed. The M/s. Valmont Structures India Private Limited who was the only contesting party was called upon to adduce evidence and it has examined only one witnesses. O.P.W.1, Sabiullah has denied employment of Md. Ifthekhar as Technician. He has denied that installation work was the responsibility of Respondent No. 3-Company. He has further stated in paragraph no. 6 of his deposition that only equipment was supplied to JSCA, and no employee was paid in cash and that Gulab Khan was never appointed as a Sub-Contractor. He next submits that Gulab Khan is immediate employer of the deceased, has not preferred any appeal against the order of the learned Commissioner in the aforesaid W.C. cases arising out of W.C. cases.

10. He next submits that the learned Labour Court has been pleased

to frame eight issues to decide the compensation case. He next submits that the appellant-J.S.C.A has not appeared as submitted by him. The appellant-J.S.C.A is only concerned with the finding of the learned court on the Issue Nos. V, VI and VII, i.e. whether Jharkhand State Cricket Association is one of the essential opposite party in this case, whether the instant case is liable to be dismissed on the ground of non-joinder or mis-joinder of essential opposite party and whether the petitioners are entitled for compensation as claimed or to what extent and by whom it is payable?. He next submits that Exhibit-A is on record and in view of that it was the responsibility of M/s. Valmont Structures India Private Limited to execute the work. In this background, Mr. Bakshi, learned counsel for the appellant-J.S.C.A submits that although the work was being executed by M/s Valmont Structures India Private Limited and Gulab Khan however, the later part of the proceeding by way of making J.S.C.A, one of the opposite party in the W.C. Cases, the liability has been fastened upon the J.S.C.A and direction has been issued to pay compensation in each of the W.C. Cases by the J.S.C.A and to recover from the M/s Valmont Structures India Private Limited as well as Gulab Khan. He further submits that there is no supervision and control of the J.S.C.A upon the employees who were working in the stadium. The J.S.C.A is not principal employer as such the finding of the learned Commissioner is not in accordance with law. He submits that in the light of Section 12 of Employees' Compensation Act, 1923 and particularly of sub-section (3), there is no mandatory obligation that the claimants to claim compensation from the Principal when immediate employer has appeared and contested

the claim and the said work was not the part of the trade or business of the J.S.C.A and that was of the M/s Valmont Structures India Private Limited and in view of that the installation of electrical equipment and other electrical work was being done by the M/s Valmont Structures India Private Limited as the M/s Valmont Structures India Private Limited is directly involved in supply of electric equipment for repair and maintenance and, therefore, the work undertaken which caused the accident is certainly the ordinary trade and business of M/s. Valmont Structures India Private Limited. He submits that the learned Court has failed to appreciate that the immediate employer was Gulab Khan and the Principal was M/s. Valmont Structures India Private Limited however, the liability has been fastended upon the J.S.C.A.

11. On these grounds, he submits that the said appeals preferred by the J.S.C.A may kindly be allowed and liability fastened upon the appellant-J.S.C.A may be exonerated. Learned counsel for the appellant-J.S.C.A submits that he has got instruction that in terms of W.C. orders in respective cases, the J.S.C.A has already deposited the amount which have been withdrawn by the claimants.

12. On the other hand, Mr. Indrajit Sinha, learned counsel for the M/s Valmont Structures India Private Limited in M.A. No. 84 of 2024, M.A. No. 85 of 2024 and M.A. No. 86 of 2024 as well as for the respondents in three M.As preferred by the J.S.C.A submits that M/s Valmont Structures India Private Limited is aggrieved with the finding that the employer-employee relationship has been fastened upon M/s Valmont Structures India Private Limited. According to him when the work

was being done in the premises of J.S.C.A. Thus treating the J.S.C.A the principal employer and unnecessarily the learned Court has fastened liability upon M/s Valmont Structures India Private Limited to recover the said amount by the J.S.C.A from the M/s Valmont Structures India Private Limited.

13. Mr. Sinha, learned counsel for the appellants in the aforesaid appeals submits that in the light of terms and conditions agreed upon between the J.S.C.A Cricket Stadium, Ranchi and the M/s Valmont Structures India Private Limited, it was explicitly the responsibility of JSCA Cricket Stadium, Ranchi to provide labour and equipments for installations, including safety measures such as safety belts, shoes, and helmets and to buttress this argument, he draws the attention of the Court Exhibit-A and submits that the scope of work and man power supply is not there. He submits in view of that the finding of the learned court is erroneous.

14. Mr. Sinha learned counsel for the appellants further submits that the learned court has not appreciated the oral evidences in its right perspective. According to him A.W.1 Kalim Ansari has stated that he was not having any document with regard to employment of the deceased in the company of M/s Valmont Structures India Private Limited and has also stated that he was not having any documentary evidence regarding the payment of Rs. 10,000/- monthly or any other allowances of the deceased from the Valmont company and that has also been admitted by the A.W.-2 namely, Sajid Khan. He also submits that only documentary evidence was there with regard to said W.C. cases that was the F.I.R

being Dhurwa P.S. Case No. 249 of 2016 corresponding to G.R. No. 5261 of 2016 and the Exhibit-3 was the chargesheet. Mr. Sinha learned counsel for the appellants further submits that although there is no straight jacket formula to decide the employer-employee relationship however, in the facts and circumstances of the case this issue is required to be decided. He submits that in view of the evidence on record, no employer-employee relationship is made out between M/s Valmont Structures India Private Limited and the deceased and in view of the finding of the learned Commissioner is not correct. Mr. Sinha, learned counsel for the appellants further submits that in the light of Section 2(d) (iii) read with Schedule-II particularly of (ix) the said Schedule when such work was being done in the premises of J.S.C.A, deceased were the employee under the J.S.C.A.

15. Learned counsel for the respondent-Gulab Khan in all these appeals denied the engagement of the deceased by Gulab Khan. He also submits that during the pendency of all these appeals, Gulab Khan and representative of M/s Valmont Structures India Private Limited have been acquitted by the learned court. According to him, in view of acquittal, it is crystal that Gulab Khan is not liable and he was not the employer of the deceased. On these grounds, he submits that so far liability fastened upon Gulab Khan is concerned, that is not in accordance with law and Gulab Khan may kindly be exonerated.

16. In view of above submissions of the learned counsel for the parties the Court has gone through the materials on record including the order of the learned Commissioner as well as trial court record.

17. The aforesaid W.C. cases have been filed alleging that the

deceased were employed as technicians with the M/s Valmont Structures India Private Limited and M/s Valmont Structures India Private Limited had deputed Mr. Gulab Khan to do work of floodlighting in the J.S.C.A. On 07.09.2016 at about 2.30 p.m while the deceased Electric Technicians Alim Ansari with two others namely, Md. Ifthekhar and Shahbaz Ansari @ Shahzada Khan went to J.S.C.A for working and repairing work of flood lighting, then all three technicians including Alim Ansari were sent in a trolly for working on flood light at a height of about 60 meters without any safety equipment or safety costume like shoes, safety belt or helmet, all of a sudden the said trolley broke down resultant which the above mentioned three technicians including Alim Ansari sustained grievous injury and died on the spot. Pursuant to that Dhurwa P.S. Case No. 249 of 2016 corresponding to G.R. No. 5261 of 2016 was registered against M/s Valmont Structures India Private Limited and Gulab Khan. The case was investigated by the police and chargesheet has been submitted. The F.I.R and chargesheet have been marked as Exhibit 1 and 3. In the chargesheet M/s Valmont Structures India Private Limited and Gulab Khan have been found to be the person responsible for such accident.

18. The contention of M/s Valmont Structures India Private Limited was that its only duty was to inspect and supervise the installation of man-rider but the work of installation was not carried out by M/s Valmont Structures India Private Limited and it was the duty of the J.S.C.A Stadium, Ranchi to provide crane and any other instruments for installation of man-rider.

19. In the Exhibit-1 which is F.I.R against Gulab Khan and

Assistant Manager of M/s Valmont Structures India Private Limited, it has been stated that on 07.09.2016 three deceased were working at JSCA Stadium under the contractor Md. Gulab of the M/s Valmont Structures India Private Limited and in course of employment at about 2.30 p.m. the accident took place and all three technicians died on the spot due to breaking of the trolley. Exhibit-2 is postmortem report of the dead body of the deceased which confirmed the death of three persons. Exhibit-3 is chargesheet which proves that the occurrence was true under section 304/34 of the I.P.C against Md. Gulab and Samiullah (Assistant Project Manger, Valmont India Pvt. Limited, Guaraon) thereafter chargesheet has been submitted. Exhibit 4 is the news paper report. Maizul Haque who is the father of deceased Md. Ifthekhar has stated that his son was employed with M/s Valmont India Pvt. Limited and has also stated that Gulab Khan had engaged the deceased in work and on the fateful day also Gulab Khan called the deceased on telephone for working under the Valmont company for that reason Gulab Khan has been made opposite party in the W.C. cases. He has stated that his son has stated that he is employed with Valmont Structures India Pvt. Limited. The suggestion made by the said witness that his son was not employed, was denied by the said witness and in view of that other witnesses in other W.C cases have stated in the same line and in view of that the learned Commissioner has found the employment of the deceased with M/s Valmont Structures India Pvt. Limited and Gulab Khan respectively. A.W. 2 is said to be the eye witness of the accident as he was also present on the spot as he was another technician under the M/s Valmont India Pvt.

Limited. He has also explained how the accident took place. However, that witness was not having any documentary evidence of employment. However, he has clearly stated that deceased was employed with M/s Valmont Structures India Pvt. Limited. Exhibit-A and B are the letters of offers regarding price of two units of Valmont Power Lift and seven set of wire rope with accessories as well as cost of site visit, inspection and supervision charge during installation of two numbers of new Valmont make rider unit and Exhibit C is the acceptance letter of J.S.C.A. In Exhibit "D"-OP.-1 the witness Sardul Islam has stated that the work was being done by Md. Gulab. The O.P.W-1 who is the Assistant Project Manager of M/s Valmont Structures India Pvt. Limited has denied the employment of the deceased with the said company and also the effect that Gulab Khan was not the contractor of the said company and he has stated that the said company was not involved in the work of installation/repair work in JSCA and the company has supplied only accessories to JSCA.

20. Section 2(dd) (iii) read with serial (ix) of Schedule (II) speaks that the work of installation of the prepare of flood light was being done for the purpose of trade and business to the liability of the said premises will be there. However, it is to be looked into the facts of the present case as to whether this supervisory and administrative control was there with regard to said work with the J.S.C.A or not. In the light of F.I.R, Chargesheet as well as deposition of witnesses as discussed hereinabove the employment with the M/s Valmont Structures India Private Limited of the three deceased has ben proved.

21. It is essential in order to impose liability upon an

employer for the payment of compensation, that there should be some substantial casual relationship between the employment and the injury or disability and it is not sufficient to show merely that it occurred while the employee was in the employer’s service. The form of expression commonly used in compensation statutes to describe this relationship is "arising out of and in the course of the employment." Under this expression used in the conjunctive form, a double condition is imposed, both of which must be satisfied in order to confer a right to compensation. In considering the meaning of the complete expression "arising out of and in the course of "the Workmen's Employees’ Compensation Acts, it is to be observed that while an accident arising out of an employment usually occurs in the course of it, it does not necessarily or invariably do so, and that an accident which occurs in the course of an employment does not necessarily arise out of it. The words "arising out of" involve the idea of causal relationship between the employment and the injury while the term "in the course of" relates more particularly to the time, place and circumstances under which the injury occurred. The phrases are, therefore, not synonymous, and it is held, accordingly, that where both are used conjunctively as in the Employee Compensation Act, a double condition has been imposed, both terms of which must be satisfied in order to bring a case within the Act.

22. In determining the relationship of employer and employee, no doubt, "control" is one of the important tests but is not to be taken as the sole test. In determining the relationship of employer and employee All other relevant facts and circumstances are required to be considered

including the terms and conditions of the contract and for that a multiple pragmatic approach weighing up all the factors for and against an employment instead of going the sole "test of control" and "Integration" test is one of the relevant tests. It is applied by examining whether the person was fully integrated into the employer's concern or remained apart from and independent of it. The other factors which may be relevant are has the power to select and dismiss, to pay remuneration, deduct insurance contributions, organize the work, supply tools and materials and what are the "mutual obligations" between them. Normally, the relationship of employer and employee does not exist between an employer and a contractor and the servant of an independent contractor. However, an employer retains or assumes control over the means and method by which the work of a contractor is to be done, it may be said that the relationship between employer and employee exists between him and the servants of such a contractor. In such a situation the mere fact of formal employment by an independent contractor will not relieve the master of liability where the servant is, in fact, in his employment. In that event, an independent contractor is created or is operating as a subterfuge and the employee will be regarded as the servant of the principal employer. Whether a particular relationship between employer and employee is genuine or camouflage through the mode of a contractor, is essentially a question of fact to be determined on the basis of each of the case and in view of that it is required to be considered in deciding the employer-employee relationship i.e (i) control, (ii) integration i.e. whether the employee has been fully integrated in the employer’s

concern or is independent of it, (iii) power of appointment and dismissal (iv) liability to pay remuneration and deduct insurance contributions (v) liability to organize the work and supply tools and materials (vi) nature of mutual obligations and (vii) terms and conditions of contract.

23. What has been discussed hereinabove and what has come in the evidence of the witnesses, it has emerged that the said deceased employees were employed by the M/s Valmont Structures India Private Limited and Gulab Khan was the sub-contractor of M/s Valmont Structures India Private Limited. One of the witness has also stated of payment of Rs. 10,000/- per month and Rs. 100/- per day.

24. Admittedly in the light of Exhibit-A and B the supervision work was taken by the M/s Valmont Structures India Private Limited. There is no document on the record to suggest that J.S.C.A to execute the said work. The machinery has also been supplied by M/s Valmont Structures India Private Limited for such installation.

25. For better appreciation in the matter so far as liability is concerned, Sub-Section (3) of Section 12 of the Employees' Compensation Act is quoted herein below:-

> " *3. Nothing in this section shall be construed as preventing an (employee) from recovering compensation from the contractor instead of the principal."*

In light of sub-section (3) of Section 12 of the Act it transpires that though the work may be within the scope of the general purposes of such Principal, he is not liable unless the work is a part of the trade or business. In the given facts, the installation of electrical equipment and other electrical work is not the trade and business of

JSCA which is a body for managing and administering cricket. On the other hand, M/s. Valmont Structures India Private Limited is directly involved in supply of electric equipment for repair and maintenance and, therefore, the work undertaken which caused the accident is certainly the ordinary trade and business of M/s. Valmont Structures India Private Limited.

26. Further, in the light of F.I.R and chargesheet the employment with the M/s Valmont Structures India Private Limited and Gulab Khan of the deceased is proved.

27. In course of argument, it has been pointed out that in the trial employee of M/s Valmont Structures India Pvt. Limited and Gulab Khan have been acquitted. However, chargesheet was there against them. The employment of the deceased-employees with the M/s Valmont Structures India Pvt. Limited and Gulab Khan is proved. There are many factors of deciding the trial and there is every possibility that when the applicant has received the compensation amount, they would have not pursue the trial. The preponderance of probability in criminal case is different as compared to civil and compensation cases.

28. In view of above it is crystal clear that M/s Valmont Structures India Private Limited is the principal employer and Gulab Khan is the immediate employer of the deceased. Initially the entire case has been contested against M/s Valmont Structures India Private Limited and Gulab Khan however, in the later part of the proceeding by order dated 23.12.2021 J.S.C.A has been implicated in this case. The

J.S.C.A has not appeared and ex-parte W.C. cases have been decided against J.S.C.A and Gulab Khan.

29. As such impugned order dated 02.03.2023 passed by the learned Commissioner, Employees' Compensation-cum-Presiding Officer, Labour Court, Ranchi in W.C. Case No. 25 of 2016, 24 of 2026 and 26 of 2026 is modified to the effect that M/s Valmont Structures India Private Limited is the principal employer of the deceased-employees and Gulab Khan is the immediate employer of the deceased-employees. As such the said order is modified to that effect. It is pointed out that pursuant to the order of the Labour Court after payment of the compensation to the claimants by the J.S.C.A the J.S.C.A has already filed proceeding before the Labour Court for recovery of said amount from the M/s Valmont Structures India Private Limited and Gulab Khan. In view of that J.S.C.A is put at liberty to pursue the said miscellaneous cases to recover the said amount from M/s Valmont Structures India Private Limited and Gulab Khan. In the light of Section 12 of Employees Compensation Act contractor is liable to indemnify the principal.

30. The order dated 02.03.2023 passed by the learned Commissioner, Employees' Compensation-cum-Presiding Officer, Labour Court, Ranchi in W.C. Case No. 25 of 2016, 24 of 2026 and 26 of 2026 is modified to the above extent.

31. Accordingly, M.A. No. 192 of 2023, M.A. No. 193 of 2023 and M.A. No. 194 of 2023 are allowed in part and M.A. No. 84 of 2024, M.A. No. 85 of 2024 and M.A. No. 86 of 2024 are dismissed with the

above observation. Pending I.A, if any, stands disposed of.

32. These appeals are disposed of in above terms. Pending I.A, if any, stands disposed of.

Dt.02.07.2026 **(Sanjay Kumar Dwivedi, J.)**

*Satyarthi/-**A.F.R.***