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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1280 of 2016

1 - Vijay Kumar Yadav S/o Amritlal Yadav, Aged About 45 Years Occupation- Labour, Cast- Rawat, R/o- Village- Reda, Tahsil- Sarangarh, District- Raigarh, Chhattisgarh.,

2 - Smt. Ghashnin, W/o Vijay Kumar Yadav, Aged About 40 Years Cast- Rawat, Occupation- Labour, R/o- Village- Reda, Tahsil- Sarangarh, District- Raigarh, Chhattisgarh,.....Claimant.,

... Appellants

versus

1 - Sushil Kumar Patel, Aged About 35 Years Cast- Aghariya, R/o- Village- Barbhata, Post Office- Madhopali, P.S. / Tahsil- Sarangarh, District- Raigarh, Chhattisgarh.

2 - Commissioner, Employee Compensation Act, Labour Court, Raigarh., District : Raigarh, Chhattisgarh

... Respondents

For Appellants	: Mr. Suman Keshari, Advocate
For Respondent No.1	: Mr. Roop Ram Naik, Advocate

Hon'ble Shri Justice Sachin Singh Rajput

Order On Board

12.10.2026

- The is an appeal under Section 30 of the Employee's Compensation Act, 1923 (in short 'the Act of 1923') assailing the legality, correctness and judicial propriety of the order dated 17.06.2016 passed by the Commissioner for Employee's Compensation Act-cum-Labour Court,

Raigarh, Chhattisgarh (for short 'the Commissioner') in Case No.11/EC Act/2015/FATAL.

2. This appeal was admitted on the following substantial questions of law:-

"1. Whether the learned Commissioner for Employees' Compensation Act-cum-Labour Court, Raigarh, Chhattisgarh was justified in dismissing the application of the appellants/claimants under Section 22 of Employees' Compensation Act, 1923 by holding that necessary parties viz Public Health Engineering, Govt. of Chhattisgarh and Harishankar Patels the alleged contractor were not arrayed as party respondents?"

2. Whether the learned Commissioner was justified in holding that appellants/claimants could not examine any other labour who were working along with the deceased and thus, the appellants/claimants could not prove the accident?"

3. An application under Section 22 of the Act of 1923 was filed by the appellants/claimants seeking compensation of Rs.6,72,000/- along with interest on account of death of their son namely, Sahdev Yadav in an accident arising out of and during the course of employment with the respondent No.1 on 15.10.2014.
4. As per pleadings, the deceased was an employee of the respondent No.1 and was engaged in construction of toilet in the schools at village Kusmura, P.S. Kotra Road, District – Raigarh (C.G.). He was being paid Rs.6,000/- per month. On 15.10.2014 at 8:00 - 9:00 PM, he came in contact with a temporary electricity wire from the electricity pole and was seriously burnt. He was taken to the K.G. Hospital and during treatment, he died at 02:00 AM. The incident was reported to P.S. Kotra

Road. Postmortem of the dead body was conducted and on that basis, the claim application was filed.

5. Written statement was filed by respondent No.1 denying the averments including the employment with him and also denying that for construction of toilet in the school, no contract was taken by him. He does not know about the incident and thus, he prayed for dismissal of this appeal.
6. The learned Commissioner framed the issues, the parties examined their witnesses, and, after appreciating the evidence available on record, the learned Commissioner dismissed the claim application.
7. Learned counsel for the appellants/claimants submits that the rejection of the claim application is basically based upon the fact that the necessary parties i.e. Public Health Engineering, Government of Chhattisgarh and the alleged contractor Harishankar Patel have not been arrayed as respondents which the learned Commissioner came to know on certain documents, exchange of letters between them. He further submits that if the Commissioner was of the view that they are the necessary parties, an opportunity ought to have been given to the claimants to array them as necessary parties. Even otherwise, he submits that the rejection of the claim application holding that no eye witnesses were examined and holding that the incident had occurred during the course and arising out of the employment, is also bad in law.
8. Learned counsel for respondent No.1 submits that the deceased was not employed with him and he has not been granted any contract to construct the toilet in the school. The finding recorded by the learned Commissioner is absolutely justified.

9. Heard learned counsel for the parties and perused the record minutely.
10. Perusal of paragraph 11 of the impugned order indicates that relying upon certain communication made between the police station and Executive Engineer, PHE, Raigarh (C.G.) and also the letter Ex.P-15 and the reply Ex.P-16, the commissioner comes to the conclusion that the contract to construct the toilet in the girls school, Kusmura was granted to one Harishankar Patel. The learned Commissioner held that as both of them have not been arrayed as there is a mis-joinder and non-joinder of necessary parties. In the opinion of this Court, the aforesaid finding deserves to be set aside, particularly in view of the fact that application for compensation under the Act of 1923, arises out of beneficial legislation. If the learned Commissioner was of the view that the aforesaid parties were necessary for the proper adjudication of the claim, an opportunity ought to have been afforded to the appellants/claimants to implead them as respondents. Accordingly, the first substantial question of law is answered in negative, in favour of the appellants/claimants.
11. The next substantial question of law relates to the finding recorded by the learned Commissioner that the claimants had failed to prove that the death of the deceased had occurred in the course of and arising out of employment of the respondent No.1. Although no eyewitnesses were examined, the learned Commissioner could have afforded the claimants an opportunity to adduce the necessary evidence in this regard. Accordingly, the aforesaid finding is also set aside, and the second substantial question of law is answered in the negative, in favour of the appellants/claimants. Apart from this, it is to be seen that no specific

issue of non-joinder or mis-joinder of parties has been framed by the learned Commissioner. Thus, the impugned order dated 17.06.2016 is hereby set-aside. The matter is remitted back to the learned Commissioner. The parties are directed to appear before the learned Commissioner on **09.12.2026**. It is observed that the parties would be at liberty to amend the pleadings, file documents, lead evidence to prove their respective pleadings. With this observation/direction, this appeal stands partly allowed.

12. Record be sent forthwith to the learned Commissioner.

Sd/-
(Sachin Singh Rajput)
Judge