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Single Bench

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A.C. No. 1357 of 2014

APPELLANTS :
(Claimants)

1. Punni Bai Wife of Late Kartikram aged about 30 years,
2. Ghanshyam Nishad S/o Late Kartikram aged about 14 years,
3. Ku.Ganeshi D/o Late Kartikram aged about 12 years,
4. Chintu Nishad S/o Late Ramadhar Nishad aged about 65 years,
5. Bhagwantin Bai W/o Chintu Nishad aged about 60 years.

M.A.C. 1357/14
No. _____
Presented by Shri. Mahesh Chandra
Date: 19/12/14

Minor appellants No. 2 and 3 For Mother Pun nibai.

All Resident- Near Shradhanand School,
Santoshi Nagar, Raipur, Police station
Tikrapara, District - Raipur (C.G.)



VERSUS

RESPONDENTS :

1. Kailash Motwani, aged about 40 years
S/o Raghmal Motwani R/o In front of
Labour Commisner office Kachhahari
Chowk Raipur (C.G.).

2. The Oriental Insurance Company Limited

By Branch Manager, Mandina Building

Jail road Raipur (C.G.).

MISCELIANEAUS APPEAL U/S 30 OF EMPLOYEES
COMPENSATION ACT FOR THE ENHANCEMENT IN THE
AWARD PASSED BY THE CLAIMS COMMISSIONER
RAIPUR (C.G.).

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Misc. Appeal (C) No. 1357 of 2014

Appellants
Claimants

Punni Bai and others

VERSUS

Respondents

Kailash Motwani and another

Present: Shri Rakesh Lodhi, counsel for the appellants.

Oral Order
(24.12.2014)

By way of the instant Appeal under Section 30 of the Employees' Compensation Act (for short 'the Act'), the appellants/claimants have challenged the award dated 6.9.14 passed by the Commissioner, Employees' Compensation, Labour Court, Raipur (for short 'the Commissioner') in Claims Case No 78/W.C. Act/2010/Fatal.

2. Facts in brief are that deceased Kartiram, who is the husband of appellant No.1 and father of respondents No.2 & 3 and the son of respondents No.4 & 5 met with an accident on 28.11.2009 while discharging his duties as cleaner of the truck bearing registration No.CG 04 ZC 6120. Due to extra stress and strain while unloading of iron rods loaded in the said truck, the deceased sustained Cardio Respiratory Failure resulting in his death. The said truck was insured with respondent No.2/Insurance Company. As the death of Kartikram took place in the course and arising out of the employment, the appellants/claimants had filed a claim petition before the Commissioner claiming for compensation under the Act.

3. The court below has, after considering the total facts and circumstances of the case, particularly the evidence which has been led on behalf of the appellants/claimants in respect of the age and salary of the deceased, reached to the conclusion that the appellants/claimants are entitled for compensation of Rs.2,91,172.

4. It is this award which is under challenge in the instant appeal.

5. The sole ground raised by counsel for the appellants is that in fact

the calculation for compensation by the Commissioner i.e. the court below has not been properly made and in fact the appellants/claimants are entitled for an amount of Rs.3,11,970. He further submits that in the instant case, the salary of the deceased was Rs.3,000 per month but the court below has not properly appreciated the same and has assessed the salary for the purpose of calculation of compensation at Rs.2,800 and therefore, the compensation awarded by the Tribunal is on the lower side and is liable to be enhanced.

6. If we peruse the record, it would show that the Commissioner has assessed the salary of the deceased to be Rs.2,800 based on the evidence of appellant/claimant No.1 i.e. the wife of the deceased who, in her deposition, has stated that the deceased was, at the time of accident, receiving salary of Rs.700 per week which comes to a total amount of Rs.2,800 per month and it was on the basis of this statement of appellant/claimant No.1 i.e. wife of the deceased that the Commissioner has reached to the conclusion that the salary received by the deceased at the time of accident was Rs.2,800 per month.

7. In view of above, it cannot be said that the court below has, in any manner, committed an error of law while calculating the compensation payable to the appellants/claimants. Accordingly, the instant appeal not having any substantial question of law, the same fails and is accordingly rejected.

Sd/-
P. Sam Koshy
Judge