

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.412 of 2009

Branch Manager, New India Assurance Company Limited, Nagarpalika Chowk, Chapra through Constituted attorney the Manager, Regional Office, New India Assurance Company Limited, BSFC Building, Frazer Road, Patna.

.... Appellant/s

Versus

1. Samudri Devi, wife of late Chathu Rai, resident of Village-Damodarpur, P.O. Mirzapur, P.S. Maraudha, District Saran.
2. Ram Niwas Sao, son of Shri Keshri Sao, resident of New Yomal Jamtara Road, Nispa, Dhanbad.

.... Respondent/s

with

Miscellaneous Appeal No. 413 of 2009

Branch Manager, New India Assurance Company Limited, Nagarpalika Chowk, Chapra through Constituted attorney the Manager, Regional Office, New India Assurance Company Limited, BSFC Building, Frazer Road, Patna.

.... Appellant/s

Versus

1. Lalita Devi, wife of late Kameshwar Prasad
2. Umashankar Prasad, son of late Kameshwar Prasad, both resident of Village Damodarpur, P.O. Mirzapur, P.S. Maraudha, District Saran

.... Respondent/s

Appearance :

(In MA No. 412 of 2009)

For the Appellant/s : Mr. Durgesh Kumar Singh, Advocate

For the Respondent/s : Mr. H.S. Sundram,
Mr. Sanjay Kumar Sharma, Advocates

(In MA No. 413 of 2009)

For the Appellant/s : Mr. Durgesh Kumar Singh, Advocate

For the Respondent/s : Mr. H.S. Sundram,
Mr. Sanjay Kumar Sharma, Advocates.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 29-07-2015

Heard the parties.

2. Since in both cases identical issue has been raised, they have been heard together and are being disposed of by this common order.

3. In M.A. No.412 the appellant is challenging the order

dated 27.4.2009 passed by the Deputy Labour Commissioner-cum-Commissioner Workmen Compensation, Saran, Chapra in W.C. No.119 of 2008 by which he has directed to make payment of Rs.1,90,287/- along with statutory interest of 12% per annum.

4. In M.A. No. 13 of 2009 the appellant is challenging the order dated 27.4.2009 passed by the Deputy Labour Commissioner-cum-Commissioner Workmen Compensation, Saran, Charpa by which he has directed to make payment of Rs. 2, 24,889/- along with statutory interest of 12% per annum.

5. In both cases issue has been raised in contested case, Deputy Labour Commissioner does not have jurisdiction to adjudicate whereas only Labour Court of area concerned has power to entertain contested cases on the ground of notification issued by State of Bihar under Section 20 of the Workmen Compensation Act wherein the State has notified that for contested cases, Labour Court of the area concerned have jurisdiction and Deputy Labour Commissioner is Commissioner under Workmen Compensation Act for uncontested cases and as such Deputy Labour Commissioner wrongly exercised power when no jurisdiction to pass an order in contested cases. It will be relevant to quote the relevant portion of notification:

“In exercise of the powers conferred by sub-section (1) and (2) of Section 20 of the Workmen’s Compensation Act, 1923 (Act VIII of 1923) and in supersession of all previous notifications issued on the subject the Governor

of Bihar is pleased to appoint the officers named in column 2 of Schedule hereto annexed to be ex-officio commissioners for Workmen's Compensation within the local limits of their respective jurisdiction as specified in Column 4 of the said Schedule and to declare that:-

(a) The Presiding Officers of the Labour Court, as ex-officio Commissioners for Workmen's Compensation shall deal with all contested cases arising under the said Act and the Rules framed thereunder;

(b) The officers other than the Presiding Officer of the Labour Courts as ex-officio Commissioners for workmen's compensation shall deal with non-contested cases only arising under the said Act and the Rules framed thereunder;-

(c) All deposits of Workmen's Compensation amount for disbursement in pursuance of Section 8 shall be made with the Commissioner for Workmen's Compensation of the areas concerned other than the Presiding Officers of the Labour Court, as ex-officio Commissioner of Workmen's Compensation;

(d) All returns as required under sections 10A, 10B and 16 of the said Act shall be submitted to the respective Commissioners for the Workmen's Compensation other than the Presiding Officers of Labour Courts as ex-officio Commissioners for Workmen's Compensation; and

(e) All petition's for claim of Compensation shall be filed in the Court of the Commissioner for the Workmen's Compensation; for uncontested cases and in case this becomes contested, they will be transferred to the respective Presiding Officers of the Labour Courts, as ex-officio Commissioner for Workmen's Compensation for disposal."

6. In view of the notification aforesaid, Deputy Labour Commissioner does not have jurisdiction to adjudicate the contested cases under the Workmen Compensation Act only the

Labour Court of area concerned has jurisdiction to adjudicate the dispute. It is a well known principle of law that even by agreement of the parties jurisdiction to adjudicate the dispute cannot be conferred to Court or Tribunal if it has no jurisdiction on the subject.

7. In such view of the matter, the impugned orders dated 27.4.2009 are hereby quashed. The Deputy Labour Commissioner, Saran, Chapra is directed to transfer the records of all the cases to the Labour Court, Chapra within a period of one week from the date of receipt/production of a copy of this order. As both the cases are of year 2008, so the Presiding Officer, Labour Court, Chapra is directed to expedite the matter and decide the case at the earliest preferably within a period of six months from the date of receipt of file.

8. Accordingly both the appeals are allowed.

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(Shivaji Pandey, J)