

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.179 of 2014

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M/S Agarwal Rice Mill, Rajadawad, P.S. Ismailabad, District Kurukshetra,
Haryana Represented By Its Partner Anil Agarwal S/o Sri Arjun Das, Resident of
Village and P.S. Ismailabad, District-Kurukshetra, Haryana.

.... Appellant/s

Versus

1. Ashoka Devi W/o Late Chandradeo Paswan, Resident of Village Mehdauli, P.S.
Bhagwanpur, District Begusarai.
2. Shambhu Tanti S/o Bhuttu Tanti, Resident of Village Mehdauli, P.S.
Bhagwanpur, District Begusarai.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajesh Ranjan

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 24-11-2015

Heard learned counsel for the appellant and the
counsel for the respondents.

In the present case, the appellant is challenging the
order dated 8th January 2014 on the ground that the Deputy
Labour Commissioner, Begusarai who is a Commissioner for non-
contested cases under the Workmen's Compensation Act having
no jurisdiction to decide the contested matter, instead of
referring the matter to the Labour Court, Begusarai which is a
Commissioner for contested cases under the Workmen's
Compensation Act, himself decided the case. .

It appears that the accident has taken place in the
rice mill of the appellant, the victim died in the said accident.

Thereafter certain amount was paid by the appellant.

The plea has been taken by the appellant that the victim was not directly connected with the rice mill, but was engaged in loading and unloading of the rice bags which cannot be basis to claim that he was employee of rice mill whereas the respondent has submitted that in view of the payment of Rs.40,000/- compensation amount by the appellant itself suggests that the victim was an employee of the rice mill, loading and unloading of the rice bags is very much connected with the activity of the mill, it cannot be said to be separate from the main work of the rice mill and as such, the victim was an employee of the rice mill.

This Court is not deciding the case on merit in view of Notification, vide S.O. No. 1188 L&E dated the 31st December 1991, where the Government of Bihar in exercise of power under Section 20 of the Workmen's Compensation Act, has issued a Notification where the Labour Court of respective area has been declared to be an ex-officio Commissioner for Workmen's Compensation for all contested cases whereas the officers other than the Presiding Officer of the Labour Courts as ex-officio Commissioner for workmen's compensation for non-contested cases. It will be relevant to quote the Notification for proper consideration.

"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.

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- (d) (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 Officer 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."

The Notification itself shows that the Deputy Labour Commissioner is a Commissioner under the Workmen's Compensation Act for non-contested cases.

From the order sheet itself shows that from the beginning, the appellant is claiming that the victim was not an employee of the rice mill and not entitled to any relief under the Workmen's Compensation Act.

In view of the said Notification, the Deputy Labour

Commissioner, Begusarai instead of deciding the case on merit, should have referred the matter to the Labour Court, Begusarai.

In such view of the matter, the order dated 8th January 2014 is set aside with a direction to the Deputy Labour Commissioner, Begusarai to remit the case along with the relevant records to the Labour Court, Begusarai who will decide the case without any delay preferably within a period of nine months from the date of receipt of the records.

The money that has been deposited before the Deputy Labour Commissioner in terms of the Workmen Compensation Act, will be remained with the Deputy Labour Commissioner who is directed to invest the same in any nationalised Bank so that it will earn the interest on the principal amount. Release of the money will be subject to the order passed by the Labour Court, Begusarai and also on appeal, if any.

If the Labour Court, Begusarai passes order against the present appellant, it will not be required to further deposit statutory amount in the event management files an appeal against the award.

Accordingly, this appeal is disposed of.

(Shivaji Pandey, J)

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