

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.707 of 2011

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Sadhana Devi

.... Appellant/s

Versus

Sri Sunil Kr. Singh @ Santu Lal & another.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ravindra Kumar Sinha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

07 23-09-2015

Heard learned counsel for the appellant.

This appeal has been preferred against the order dated 13.10.2010 passed by the Commissioner under Workmen's Compensation Act identifying the appellant to be entitled to get Rs.4,42,740/- with a further burden that if the amount is not paid within the stipulated period, it will carry an additional burden of an interest of 8% per annum till the date of the realization.

The petition is also found hit by law of limitation in terms of Sub-section-2 of Section 30 of the Workmen's Compensation Act. It is also evident that appellant had already received the due amount.

In order to justify filing of instant appeal, it has been submitted on behalf of appellant that interest has not been paid which ought to be from the date of the filing along with the fact that appellant had claimed receiving of Rs.5,000/- per month as salary in lieu thereof, the Commissioner had estimated

Rs.4,000/- per month.

From the order impugned, it is evident that deceased, a driver under one Sunil Kumar, owner of SUMO bearing registration no.BR-21A-9996, had gone along with one Navin Kumar on 15.08.2002 and since thereafter, did not return as a result of which Bodh-Gaya P. S. Case no.91 of 2002 was registered. Because of the fact that neither dead body was traced nor there was any sort of positive evidence, in light thereof, the matter was kept pending to draw an inference in terms of Section 108 of the Evidence Act and further, after satisfaction of the statutory period of seven years, instant petition revived and then, the order impugned has been passed after completing the legal paraphernalia. As such, asking for interest from the date of filing of petition that means to say, from 2004 is not appropriate.

So far second aspect is concerned, there happens to be no conclusive evidence.

Hence, as provided under proviso of Section 30 of the Workmen's Compensation Act, no substantial question of law is found involved to justify admission of instant appeal.

Accordingly, instant appeal is rejected.

(Aditya Kumar Trivedi, J)

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