

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8432 of 2004

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Jagropan Rai s/o Late Khelawan Rai, resident of village- Gujar P.S. –Kachawa,
P.O. –Kachawa, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Deputy Labour Commissioner-cum-Commissioner, Workmen
Compensation, Magadh Division, Gaya.
3. Sri Akhilesh Ram son of Ghamdi Ram.
4. Smt. Dilmane Devi wife of Sri Akhilesh Ram,
Both are residents of village- Gujar P.O. & P.S.- Kachwa, District- Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Deepak Kumar Sinha, Adv.
Mr. JAYANAND, Adv.

For the Respondent/s : Mr. G. Shankar, AC to GP-6

For the Pvt. Respondents: Mr. Rakesh Ambastha &
Mr. Rajeev Kumar Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 05-05-2015

Heard counsel for the petitioner and the Respondents.

In this case petitioner is challenging the order dated 5th May 2004
communicated to the petitioner on 23rd June 2004 whereby and where under the
Deputy Labour Commissioner-cum-Commissioner under the Workmen
Compensation, Magadh Division, Gaya in CWJC No. 19 of 1994 awarded an
amount of Rs.1,52,496/-.

As it appears that this Court, vide order dated 6th April 2011
directed the petitioner to deposit 50 per cent of compensation amount of
Rs.1,52,496/-, in pursuance 50 per cent of the said amount has been deposited.

The complaint was filed by one Dilmani Devi wife of Akhilesh
Ram claiming that his both hands have been chopped off, filed compensation
case claiming her husband was an employee of Jagropan Rai (Petitioner) and



while cutting fodder in the machine his both hands came under the blade of the machine which resulted into chopping off his both hands. Claim has been made that her husband was getting Rs.1,500/- each month. The case was registered as Case No. 26 of 2001. On notice the petitioner appeared and disputed engagement of husband of the complainant. The court recorded the evidence and arrived to a conclusion that the age of the husband of the complainant was 45 years and he was getting Rs. Rupees one thousand five hundred per month and calculated the entitlement of compensation amount at Rs.1,52,496/- and directed to make the payment.

Counsel for the petitioner submits that apart from the complainant, the victim was examined by the Commissioner and at the end it appears that Akhilesh Ram, victim has to put his LTI. If both the hands have been chopped off, the question of putting LTI by him does not arise and it leads to absurdity so much so the Deputy Labour Commissioner has no jurisdiction to decide entitlement of compensation as he is Commissioner to decide the amount of compensation in contested case.

Counsel for the workman submits that the Commissioner has recorded finding and this Court should not interfere lightly, basically relates to victim whose both hands have been chopped off.

Having considered the rival contention of the parties, the Government of Bihar in exercise of power under Section 20(1) and (2) of the Act issued notification providing that the Presiding Officer Labour Court will be ex-officio Commissioner for dealing with the contested cases. For uncontested cases, the Commissioner appointed by the State Government has to exercise the power in this regard. It will be relevant to quote the Notification as issued by the Government of Bihar which is as follows:



“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."

In such view of the matter, the Deputy Labour Commissioner is only authorized to deal with the uncontested cases. In this case, petitioner has dispute td the employment of victim with him. This Court is not giving any opinion on the merit of the case and about the injury received by the victim while cutting fodder. In such view of the matter, the order impugned is set aside and the matter is remanded back with a direction to the Deputy Labour Commissioner, Gaya to send the matter to the labour court, Dalmianagar who will be the appropriate authority to decide the case of the parties. As it is a very old matter, the Labour Court, in turn, is directed to decide the case on priority basis, after giving notice to the parties. As the petitioner has already deposited 50 per cent amount, will be subject to result of order passed by labour court. The deposition placed by the petitioner, is kept on the record.

With the above observation/direction, this petition is disposed of.

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(Shivaji Pandey, J)