

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.451 of 2009

Regional Manager, Oriental Insurance Comapany Ltd.

.... Appellant/s

Versus

Sumitra Devi & Anr

.... Respondent/s

Appearance :

For the Appellant/s : Mr. SANJAY SINGH &

Mr. Bimlesh Kumar Jha, Adv.

For the Respondent/s : M/s Rudal Prasad and Dinkar Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 07-10-2015

Heard counsel for the appellant and the respondents.

In this case, appellant has challenged the judgment dated 28th February 2009 passed by the Deputy Labour Commissioner, Patna in WC Case © No. 11 of 2005 whereby he has decided the case against the Insurance Company.

In the present case, detailed facts are not required to be looked into as the present application is being decided without going to the merits of the case on account of the fact that the Deputy Labour Commissioner has no jurisdiction to examine and decide the contested case in view of notification issued by the State of Bihar vide SO No. 1188 L & E dated the 31st December 1991

By this notification, the Government of Bihar in exercise of power conferred under Section 20(1) and (2) of the Workmen's Compensation Act, 1923 notified that the Presiding Officer of the Labour Court as ex officio Commissioner for Workmen's Compensation shall deal with all the contested cases arising under the said Act and the Rules framed thereunder,

whereas 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. It is relevant to quote the relevant portion of the Notification as follows:

- (a) The Presiding Officer of the Labour Court as ex officio Commissioner for Workmen's Compensation shall deal with all the 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.

In the present case, claim has been made that the victim was an employee of Ram Prवेश Singh who having truck vide Regd. No. BR1G 4519 as Khalasi and he was killed by criminals while the truck was going to Jehanabad. In the present case the Insurance Company is challenging factum of death of the victim while he was on a truck. So claim has been made that the victim died of Motor Vehicle accident. This is admittedly a disputed question of fact cannot be resolved by the Deputy Labour Commissioner who is Commissioner under Compensation Act for non-contested cases.

In such view of the matter the impugned judgment is not sustainable and the same is set aside. Direction is given to the Deputy Labour

Commissioner, Patna to transfer the file to the Labour Court, Patna who will decide the case on priority basis, preferably within six months from the date of receipt of the file.

With this observation, this petition is allowed to the aforesaid extent.

Office is directed to remit back the lower court records forthwith. The computed amount which is lying with this Court be remitted to the Deputy Labour Commissioner is directed to deposit the same in any nationalized Bank under TDR Scheme so that it may fetch maximum interest and the disbursement of the amount will be subject to the result of the case by the Labour Court, Patna.

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(Shivaji Pandey, J)