

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.722 of 2011

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Lila Devi & Ors

.... Appellant/s

Versus

Sri Chhabi Raj Gaur & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. BIRENDRA KUMAR

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 09-10-2015

Heard counsel for the appellants and the Insurance Company.

In the present case, order dated 28th March 2007 passed by the Deputy Labour Commissioner cum-Commissioner under the Workmen's Compensation Act whereby and whereunder he has calculated the amount of compensation of Rs.2,13,022/-.

Challenge has been made on the ground that the Deputy Labour Commissioner has wrongly taken into consideration the salary of the appellant Rs.2,000/- where as his claim was that the victim was earning Rs4,000/- per month and the court illegally calculated the amount of compensation on the basis of Rs.2,000/- per month. The victim was working as a driver of vehicle bearing Regd. No.UP78 N 1585 and he died in course of employment in 2004. A claim case was filed before the Deputy Labour Commissioner, under Workmen's Compensation Act, several objections were taken by the parties opposing the entitlement of compensation, he did not accept the objection and calculated the amount of compensation on the basis of minimum wages fixed by the appropriate Government and arrived to an amount of compensation as per Minimum rate of wages fixed by the Government, rejected the claim of fixation of compensation

based on Rs.4,000/-.

Counsel for the appellants submits that either he could have accepted the claim of the appellant or to have referred the matter to the Labour Court treating it as contested case. In contested cases, Labour Court has only jurisdiction to decide the lis, in view of Notification of the Govt. vide S.O.No.1188 L & E date d the 31st December, 1991.

In view of contentions raised by the parties before the “Deputy Labour Commissioner, the proper course was for him to refer the matter to the Labour Court and, as such, this Court holds that the order passed by t he Deputy Labour Commissioner is illegal, not sustainable and the same is set aside and he is directed to transfer the case to the Labour Court Dalmianagar who will decide the case after giving proper notice to all the parties. As it is an old matter, the Labour Court will be obliged to dispose of the same within a period of nine months from the date of receipt of the records.

Accordingly, this petition is disposed of.

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(Shivaji Pandey, J)