

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

FIRST APPEAL NO. 113 OF 2002

The Executive Director,
Sangamner Bhag SSK Ltd.,
Amrutnagar, Tq: Sangamner,
Dist: Ahmednagar.

... APPELLANT
(Original Respondent No.1)

VERSUS

1. Dattu S/o Kachru Kharat,
Age: 30 years, Occu: Nil,
R/o. Sawargaon Ghule,
Tq: Sangamner,
Dist: Ahmednagar.

... RESPONDENT NO.1
(Original Appellant)

2 Namdeo S/o Waghujji Aghav,
Age: 35 yrs, Occu:
R/o. Sonai, Tq: Newasa,
Dist: Ahmednagar.

... RESPONDENT NO.2
(Original Respondent No.2)

Mr. R.N.Dhorde, Senior Counsel, for the Appellant.

Mr. Pradeep Shahane, Advocate for Respondent No.1.

Mr. S. S. Shete, Advocate for Respondent No.2.

CORAM : **N. W. SAMBRE, J.**

DATE : 06th August, 2015.

ORAL JUDGMENT:

1 The present appeal is by the principal employer questioning the award by the Second Labour Court, Ahmednagar on 1st November, 2001, granting compensation of Rs.33,499/- with interest @ 6% per annum with effect from 28th February, 1992.

2 The learned counsel for the Appellant raises two fold contentions (i) that, the claimant has admitted in his evidence that he has not brought on record any documentary evidence to show that he has lost his eye in an accident occurred during his employment and no sufficient proof is brought on record to establish that he has suffered the injury.

3 So far as above referred submissions are concerned, it is an admitted position on record that the claimant was employed by one Namdeo Aghav i.e. Respondent No.2 to the present appeal pursuant to an agreement executed in between the Appellant and Respondent No.2 on 7th October, 1991 for crushing season 1991-92 vide agreement Exhibit C-8/4. Vide clause (13) of said agreement, Respondent No.2 has agreed to supply the Appellant the workers, which were mentioned in the said list.

4 Once, the said agreement is admitted by the present Appellant, the burden shifts on the Appellant to bring on record the list, which was produced alongwith the agreement to demonstrate that the claimant was not in the employment of the Appellant or Respondent No.2.

5 The contention of the Appellant that the claimant has not produced any evidence on record so as to substantiate the cause of injury during the course of employment and also as regards non-production of medical evidence, it is required to be noted that the claimant has examined himself at Exhibit O-3 and also a co-worker at Exhibit O-6.

6 The Appellant has examined one Bhausahab Vithalrao Sonwane at Exhibit O-7. The claimant and his witness have supported the case of cause of accident and loss of eye while discharging the duty while in employment of the Appellant herein. Pursuant to the oral evidence that was brought on record, though it was established that the claimant has suffered the accident in question during the course of employment, nothing adverse was brought on record by the present Appellant though under law, they

were duty bound to through their witness Bhausahab.

7 In view of the fact of execution of contract at Exhibit C – 8/4, in between the Appellant and Respondent No.2 and the evidence of the claimant at Exhibit O-3 and his witnesses at Exhibit O-6, it could be easily inferred that the Appellant has caused injury and has lost his eye during the course of employment.

8 Apart from above, the compensation of Rs.33,499/-, in my opinion, awarded by the Workmen's Compensation is meager to be re-appreciated in the first appeal.

9 In view of above observations, the first appeal stands dismissed.

[N. W. SAMBRE, J.]