

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

**CIVIL APPLICATION NOS.8013/2015,
6323/2015 & 6324/2015**

IN

FIRST APPEAL (ST.) NO.14692/2015

Sayeeda Nazera Begum Anwar Ahmed
Kazi & another.

...Applicants..

Versus

The State of Maharashtra & another.

...Respondents...

.....

Shri Mohit R. Deshmukh, Advocate for applicants -
claimants.

Shri G.R. Ingole, AGP for the State / appellant.

.....

CORAM: N.W. SAMBRE, J.

DATE: 24.07.2015

ORDER :

- 1] Heard learned counsel appearing for the parties.
- 2] For the reasons stated in the Civil Application No.6323/2015 and as the contents of the application are

- 2 -

not objected, the delay caused in preferring present appeal is condoned. Civil Application No.6323/2015 is allowed and disposed of.

3] With the consent of learned counsel for the parties, the appeal is taken up for hearing and final disposal at this stage.

4] Present first appeal is against an award delivered by the Labour Court, Aurangabad, awarding compensation of Rs.6,39,200/- to the claimant nos.1 & 3, whereas the claim of the claimant no.2 came to be rejected. A penalty of 50% was also saddled.

5] Learned Assistant Government Pleader for the appellants while questioning the legality and validity of the award would urge that the deceased Anwar, who at the relevant time claimed working as Driver was not deputed for the job in question as no specific order was produced on record to that effect that he should take the vehicle which has caused death of Anwar. Apart from above, according to him, the penalty to the extent of 50% as ordered is also not justifiable and has sought support from Sections 3 and 4 of the Workmen's Compensation Act, 1923.

- 3 -

6] Shri M.R. Deshmukh, learned counsel for the claimants would urge in support of the claim that the deceased Anwar was an employee of the appellants, the copy of salary slip was produced at Exhibit U-11/1, which was admitted by the present appellants. Apart from above, he would urge that the moment there is admission about payment of salary or the salary document relating to the deceased Anwar, the only conclusion that can be drawn is that the deceased Anwar was an employee of the present appellants. Besides this, he would submit that the penalty of 50% was rightly awarded by the Commissioner of Workmen's Compensation in view of the stand taken by the present appellants before him denying the employer – employee relationship.

7] So as to analyze the submissions of the parties before me, it is noted that the claimant no.1 has examined herself at Exhibit U-9 whereas the appellants have not produced any evidence. The claimants in addition to oral evidence have produced the documentary evidence – Exhibits U-11/1 to U-11/9, which were admitted by the appellants. Apart from above, from the admission given by the appellants herein as regards the post

- 4 -

retiral benefits given to the claimant no.1, the only conclusion can be drawn that the deceased Anwar was an employee of the appellants. While awarding the compensation in question, the Tribunal has taken into account the last salary slip which was produced particularly in the light of the limit fixed as per Schedule II of the Workmen's Compensation Act, 1923. The Tribunal as such has proceeded to award the compensation. For awarding the penalty of 50%, the Tribunal has noted appropriate observations / findings as regards the approach of the present appellants in dealing with the claim of the claimants.

8] In my opinion, the award for compensation under the Workmen's Compensation Act was delivered by the Commissioner, Workmen's Compensation, within the framework of the Act. No case for interference is made out. The appeal fails and thus stands dismissed. No order as to costs.

9] In view of dismissal of present first appeal, the claimants will be entitled to approach the Commissioner, Workmen's Compensation, for execution of the award / withdrawal of the amount. Accordingly, Civil Application

- 5 -

No.8013/2015 is disposed of. In view of dismissal of appeal, Civil Application No.6324/2015 for stay does not survive and stands disposed of as such.

(N.W. SAMBRE, J.)