

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**FIRST APPEAL NO. 825 OF 2015**

MAHADEV VYANKAT SHEWALE  
VERSUS  
1] LAXMINIVAS GOVINDLAL BHUTADA  
  
2] BRANCH MANAGER, NEW INDIA ASSURANCE  
CO. LTD. CHANDRA NAGAR, LATUR

...  
Advocate for Appellant : Adgaonkar Ravibhushan P  
Advocate for Respondents : Loya B R Adv For Resp. 1  
Ambhore M.M. Adv For Resp 2  
...

**CORAM : S.V.GANGAPURWALA,J.**

**DATED : 7TH OCTOBER, 2015**

**ORDER :-**

I have heard Mr.Adgaonkar, learned counsel for the appellant, Mr.Loya and Mr.Ambhore, learned counsel for the respondents.

2] The claim of the present appellant filed under the provisions of the Employees Compensation Act has been rejected on the ground that employer employee relationship has not been proved.

3] Mr.Adgaonkar, learned counsel for the appellant submits that the appellant be permitted to examine two more witnesses viz. (1) Shivaji Shajaji Bartakke, R/o Shivneri Nagar, Ekmat Chowk, Latur, who is an eye witness; and (2) Vikas Kadam, R/o L.G.Bhutada, Abhinav Industries, F-44,MIDC, Latur, who is the Manager of the factory owned by respondent no.1. According to learned counsel the said witnesses are relevant and necessary for effective adjudication of the claim of the appellant. The appellant could not examine these

witnesses.

4] Mr.Loya, learned counsel for respondent no.1 submits that the respondent no.1 has examined himself who is the owner of the industry and has specifically denied that the appellant was at any point of time employee of the respondent no.1. According to the learned counsel, the complete opportunity was given by the Commissioner, Workmen's Compensation to appellant to examine all witnesses. No illegality is committed by the Commissioner while passing the impugned order. Mr.Ambhore, learned counsel for the respondent insurance company also submits that the Commissioner, Workmen's Compensation Act, after considering the entire evidence on record has rightly held that the appellant is not the employee of respondent no.1.

5] I have considered submissions. The Employees Compensation Act is a beneficial legislation. It has come in the evidence that it is one Mr.Vikas Kadam who had admitted the appellant in the hospital. He is a Manager of the industry of respondent no.1 as per the facts which are narrated. So also Shivaji Bartakke is the eye witness and his statement is recorded. Considering Employee's Compensation Act, to be a beneficial piece of legislation, I would afford one more opportunity to the appellant to examine the witnesses.

6] In light of the above, the impugned judgment and award is quashed and set aside. The matter is remitted back to the Commissioner, Workmen's Compensation. The parties shall appear before the Commissioner, Workmen's Compensation on **16th November, 2015**. Parties i.e. appellant as well as respondents are permitted to adduce further evidence. The Commissioner, Workmen's Compensation shall thereafter decide the said proceeding afresh on its

own merits expeditiously. Appeal accordingly partly allowed. No costs.  
Record and proceeding be sent back forthwith.

**[S.V.GANGAPURWALA,J.]**

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