

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 986 of 2014

- The Oriental Insurance Company Ltd. Through- Its Divisional Manager, Divisional Office, 1st Floor, Rama Trade Centre, Near Bus Stand, Bilaspur, Civil and Revenue District Bilaspur C.G.

---- **Petitioner**

Versus

1. Tejram Yadav S/o Malikram Yadav Aged About 66 Years Presently R/o Boirdadar (Gopalpur), Vijaypur, P.S. Chakradhar Nagar, Tah. And Distt. Raigarh C.G.
2. Smt. Kamla Bai W/o Tejram Yadav Aged About 62 Years Presently R/o Boirdadar (Gopalpur), Vijaypur, P.S. Chakradhar Nagar, Tah. And Distt. Raigarh C.G.
3. Sandeep Tiwari S/o Jayshankar Tiwari Aged About 15 Years Minor, Through natural gurdian and Father Shri Jayshankar Tiwari, R/o Bohidarpara, Ganja Chowk, Raigarh C.G., Presently R/o Chandni Chowk, Babupara, Raigarh C.G.

---- **Respondent**

For Petitioner
For Respondents 1 & 2.

Mr. Ratan Pusty, Advocate
Mr. Santosh Bharat and Mr. Vikas
Shrivastava, Advocates

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

1/2/2016

Heard on admission.

(2) This appeal is directed against the award dated 08.07.2014 passed by the Commissioner, Workmen Compensation, by which, the compensation of Rs.3,17,685/- has been awarded on account of death of one Munna Rawat.

(3) Learned counsel for the appellant/insurance company raised two questions of law for consideration :

a. It is submitted that the Court below has committed illegality and perversity in recording a finding that the deceased – Munna was employed with the owner of the vehicle- Sandeep Tiwari. It is submitted that initially claim was made against one Harishankar but later on by amendment application, it was stated that deceased Munna was employed with the owner of the vehicle Sandeep Tiwari.

b. It is submitted that the learned Commissioner, Workmen Compensation, ignored to see that the contract of insurance was void because the father of Sandeep Tiwari suppressed the fact that at the time of insurance of the vehicle, which stood registered in the name of Sandeep Tiwari, the said Sandeep Tiwari was minor.

(4) As far as the first proposed question is concerned, the Tribunal has drawn the inference of relationship of employer and employee between deceased Munna Rawat and Sandeep Tiwari on proof of the fact that the vehicle, which met with accident and resulted in death of Munna, was being driven by Munna and secondly the vehicle was in the ownership of Sandeep Tiwari. On the basis of two proved facts, inference was drawn by the Commissioner of Workmen compensation.

(5) In the opinion of this Court, inference drawn is permissible under the law. Once the two facts stated above are not disputed, the inference of employment cannot be said to be perverse or without any material on record.

(6) The issue that the contract of insurance was void on the ground that Sandeep Tiwari, the owner of the vehicle, in whose favour insurance was granted, was minor, was not seriously taken up by the Insurance Company. No issue in this regard was framed by the Commissioner, Workmen Compensation. The insurance company had full opportunity to pray before the Court below to frame issue so as to lead evidence. Whether Sandeep Tiwari was minor or not is an issue of fact and not law, therefore, no substantial question of law is involved in this appeal.

(7) Accordingly, the appeal being sans merit is liable to be and is hereby dismissed.

Sd/-

(Manindra Mohan Shrivastava)

Judge