

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 929 OF 2010

M/s P.B.S. Oil Mil, through Director Shyamlal, Village & Post Arjuni, Thana Arjuni, District Dhamtari (C.G.)

... Appellant

versus

1. Sanju, S/o Late Bisnath, aged about 13 years, Caste Yadav
2. Laluram, S/o Late Bisnath, aged about 8 years, Caste Yadav
3. Ku. Sandhya, D/o Late Bisnath, aged about 3 years, Caste Yadav
All Respondents No. 1 to 3 are minors represented by natural guardian & grand maternal mother Smt. Puniya Bai, W/o Dheerpal
All R/o Village Ghutkel, Thana Nagri, Tehsil Nagri, District Dhamtari (C.G.)

... Respondents

For Appellant	:	Mr. K.K. Dewangan, Advocate.
For Respondents	:	Mr. S.P. Sahu, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06/11/2017

1. The present is an appeal under Section 30 of the Workmen's Compensation Act, 1923, assailing the award dated 28.7.2010 passed by the Commissioner for Workmen's Compensation Act-cum-Labour Court, Raipur, in Case No. 1-B/135/W.C.Act/2005/Fatal.
2. Vide the impugned award, the learned Commissioner, in a death case, under Section 22 of the Workmen's Compensation Act, has awarded a compensation of Rs. 2,76,255/- to the respondents-claimants.
3. Brief facts of the case are that on 19.9.2004 the deceased-Bisnath, aged around 35 years, got electrocuted and died. The legal representatives of the deceased moved a claim application alleging that in the course of and arising out of employment the deceased got electrocuted and died and therefore they were entitled for compensation under the provisions of the Workmen's Compensation Act.

4. The employer i.e. the present appellant entered appearance before the Commissioner and submitted their reply/objection denying the employment relating accident. The employer submitted that it was an accident totally unrelated to the nature of employment which the deceased was performing and that the place of accident also is outside the factory premises. Moreover, the deceased was also a contractor employee and was not directly connected with the appellant. It was also contended that the deceased died while he was going to answer the nature's call and that since the accident arose out of employment, the claim application ought to have been rejected by the Commissioner. Thus, the finding of the learned Commissioner to that extent is bad in law and deserves to be set aside.

5. This Court on 6.12.2010 while admitting the present appeal had formulated the following substantial question of law:

“Whether in view of the state of evidence on record, the finding recorded by the Commissioner for Workmen's Compensation that the death of the deceased has taken place in course of and arising out of the employment is not in accordance with law?”

6. Perusal of record would show that there are evidence which have been led by the claimants' side, that is, apart from the statement of AW-1 Puniya Bai i.e. mother-in-law of the deceased, one person who was examined is AW-2 Kanhaiyalal, a co-worker, who was working along with the deceased. He has deposed that in the course of removing the husk, the deceased came in contact with a live electricity wire and got electrocuted. From the cross-examination of the said witness also his deposition seems to be consistent to the extent the deceased being in employment at the time of accident and that he died in the course of his duties. So far as the intimation to the police authorities is concerned, the same also does not anywhere reflect that the accident had occurred when the deceased was going to answer the nature's call.

7. Section 30 of the Workmen's Compensation Act envisages that an appeal would lie to the High Court only in the event of a substantial question of law is there. Though this Court on 6.12.2010 had framed the the substantial question of law, however, a perusal of record particularly the evidence which have come on record would clearly reflect that there is sufficient evidence brought on record to show that the deceased was in employment and that he was working when he came in contact with a live electricity wire. There is no evidence on record with which a contrary view or a different conclusion could have been taken.

8. The appeal being devoid of merit thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge