

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1549 of 2017

United India Insurance Company Limited Through Its Branch Manager, Branch Office, Tara Complex, G. E. Road, Power House Bhilai, District Durg Chhattisgarh

---- Appellant

Versus

1. Gangaprasad Thakur S/o Late Devlal Thakur, Aged About 40 Years,
2. Smt. Dhaneshwari Bai W/o Gangaprasad Thakur Aged About 38 Years

Both are R/o Village Pandepara, Balod, Police Station, Tahsil And District Balod Chhattisgarh

3. Deepak Upadhyay, S/o Late Ramraj Upadhyay, Aged About 38 Years Proprietor - Gangotri Rice Mill, Balod, Police Station Balod, Tahsil And District Balod Chhattisgarh

----Respondents

For Appellant : Mr. Dashrath Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/11/2017

1. Heard on I.A. No.1, which is an application for condonation of delay.
For the reasons assigned in the application and finding them to be satisfactory, I.A. No.1 is allowed and delay of 12 days in filing the appeal stands condoned.
2. The challenge in the present appeal is award dated 18.08.2017, passed by the Commissioner, Workmen's Compensation, Labour Court, Durg, Chhattisgarh, in Case No. 91/W.C.Act/2012/Fatal.
3. Vide the impugned award, the Commissioner has awarded a compensation of Rs.2,87,156/- to the Claimants. The present is a death case where the deceased Jitendra Kumar Thakur met with an accidental death on 05.11.2010. The accident occurred when the deceased was illuminating the building of the respondent No.3

during Deepawali festival, when he got electrocuted in the course of fitting of the colourful electric lights.

4. The present is an appeal by the Insurance Company as the liability has been fastened upon the Insurance Company on account of the respondent no.3 being duly insured by the present appellant.
5. The counsel for the Insurance Company submits that it is a case where the employment of the deceased has not been proved before the Commissioner and that the contention before the learned Commissioner is in contravention or is in direct conflict with the averments and pleadings which is revealed from contents of the F.I.R. and other related documents in the criminal case.
6. He further submits that it is a case where immediately after the accident it was one Deepak Netam an Electrical contractor, who was arrested for the death of deceased and he was prosecuted for the offence under Section 304A of I.P.C. as he was the immediate employer of the deceased. Thus the counsel for the appellant prayed for setting aside of the impugned award.
7. Bare perusal of the record would show that the place of accident is not in dispute and the premises where the accident occurred being that of respondent No.3 is not in dispute. Even if the contention the learned counsel for the Insurance Company is accepted to the extent of accepting Deepak Netam is the employer of the deceased, even then the fact that the deceased was working at the premises of the respondent No.3, the respondent No.3 would squarely come within the definition of principal employer. It is not in dispute that the respondent No. 3 has entered appearance before the learned

Commissioner and has accepted the accident, the employment and other aspects.

8. Thus, in the given factual matrix, even if the contention of the learned counsel for the Insurance Company is to be accepted, the Insurance Company would still to be liable to pay compensation in the light of the respondent No.3 being the principal employer.
9. The appeal thus being finding of facts and there being no substantial question of law involved in the case, this Court is of the opinion, not a fit case for entertaining the appeal, the same is rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved