

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No.526 of 2007**

1. Koushal Kumar Sahu S/o Narayan Sahu, aged about 15 years (Minor).
2. Ku.Latabai S/o Narayan Sahu, aged about 10 years (Minor).
3. Narayan Sahu S/o Late Mohan Sahu, aged about 53 years.

Occupation-None, through minors natural guardian of the appellants Nos. 1 & 2.

All are R/o Village Nawagaon – Mudhipar, Post Mangatta, Police Station Somni, District Rajnandgaon.

---Appellants

Versus

Vishal Jain S/o Deoraj Jain, Occupation – Mining Stone, aged about 27 years, R/o M.I.G.732, Padmnabhpur, District Durg (C.G.).

---Respondent

For appellants : Shri Vivek Tripathi on behalf of Shri Awadh Tripathi, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14/11/2017

1. Present is an appeal by the claimants under Section 30 of the Workman Compensation Act assailing the award dated 05/04/2007 passed by the Commissioner of Workman Compensation Act, Labour Court, Rajnandgaon, District Rajnandgaon (C.G.) in Claim Case No.72/W.C. Act/2006/Fetal.

2. Vide the said impugned award, the Tribunal has rejected the claim case on the ground, that the claimants has not been able to establish the employment of the deceased with the respondents.

3. The counsel for the appellants submits, that the finding of the Labour Court is bad in law in as much as an F.I.R. in respect of

the accident was immediately lodged. The respondents were prosecuted for the offence under Section 304-A of the I.P.C. and that the record of the Criminal Case has also been brought on record and therefore strong inference should have been drawn by the Commissioner so far as the accident to have been occurred in the course of the employment of the deceased and thus prayed for setting aside of the award and the claimants to be suitably compensated.

4. None for the respondents served.

5. Having heard the counsel for the appellants and on perusal of the impugned order this court finds, that in Paragraph-7 of the impugned award, the learned Commissioner has itself categorically accepted the fact, that the deceased died in the premises of the respondents on 03/03/2006. Further in the same Paragraph the Commissioner also accepts the fact, that the Criminal Case has been lodged against the respondents.

6. In view of the aforesaid finding of the Labour Court, the conclusion arrived at of the accident not having been proved so far as it having arisen out of and in the course of the employment does not seem to be proper and legal. It appears, that the Commissioner has shown a little bit of haste in concluding the matter and further it also should have kept in mind, that the provision of Workman Compensation Act is a liberal legislation and liberal attitude has to be applied while considering the Claim Case under the Workman Compensation Act.

7. In the given factual matrix of the case, this court is inclined to set aside the award passed by the Commissioner and the matter is

remitted back to the Labour Court, Rajnandgaon for passing a fresh order considering the entire facts and circumstances of the case.

8. Moreover it is also ordered, that the claimants shall be entitled to adduce any further evidence required to substantiate their contention so also the respondents shall also have the liberty to produce any witness in rebuttal. Taking into consideration the seniority of the matter this court thinks it proper to direct, that the Commissioner shall make all endeavors for disposal of the appeal at the earliest.

9. Since the claimant is present before this court, he is directed to enter appearance before the Commissioner, Workman Compensation Act, Labour Court, Rajnandgaon on 30/11/2017 along with a copy passed by this Court today.

10. The appeal stands partly allowed and disposed off.

**Sd/-
(P. Sam Koshy)
Judge**

Sumit