

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1466 OF 2007

Smt. Lalita Singh, W/o Late Kundan Singh, aged about 25 years, through Shri Pradeep Kumar Singh, Supervisor, J.D. Construction, National Building Construction Corporation Ltd., N.T.P.C., Seepat, Tahsil- Seepat, District Bilaspur.

... Appellant

versus

1. National Building Construction Corporation Ltd., N.T.P.C., Seepat, Tahsil- Seepat, District Bilaspur.
2. Prakash Singh, S/o Late Shri Mukteshwar Prasad Singh, Village- Choutham, District Khagaria (Bihar)
3. Smt. Sulochana Devi, W/o Prakash Singh, Village- Choutham, District Khagaria (Bihar)
4. NTPC, through General Manager, Add. NTPC Seepat, District Bilaspur.

... Respondents

MISC. APPEAL (C) NO. 19 OF 2008

1. Prakash Singh, S/o Late Shri Murteshwar Prasad Singh, aged about 50 years, R/o Chautham, District Khagdia (Bihar)
2. Smt. Sulochana Devi, W/o Prakash Singh, aged about 45 years, R/o Chautham, District Khagdia (Bihar)

... Appellants

versus

1. Lalita Singh, through Pradeep Kumar Singh, Supervisor (J.D. Construction), National Building Construction Corp. Ltd., NTPC, Seepat, District Bilaspur (C.G.)
2. National Building Construction Corporation, through- Manager, N.T.P.C., Seepat, District Bilaspur (C.G.)
3. NTPC, through- General Manager, N.T.P.C., Seepat, District Bilaspur (C.G.)

... Respondents

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- Mr. N.K. Vyas, Advocate, for the Appellant in MAC No. 1466/2007.
 - Mr. S.P. Kale, Advocate, for the Appellants in MAC No. 19/2008.
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Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/10/2017

1. The present two appeals assail the award passed by the Commissioner, Workmen's Compensation-cum-Labour Court, Bilaspur, dated 29.10.2007, in two claim cases i.e. Claim Case No. 04/W.C.A./COC-1-B/06 and Claim Case No. 09/W.C.A./COC-1-B/06.
2. The said claim cases were preferred by the two sets of persons on the accidental death of one Kundan Singh, aged around 25 years.

3. MAC No. 1466/2007 arise out of Claim Case No. 04/W.C.A./COC-1-B/06 which has been filed by Smt. Lalita Singh, wife of deceased-Kundan Singh. MAC No. 19/2008 arise out of Claim Case No. 09/W.C.A./COC-1-B/06 which has been preferred by Prakash Singh and Smt. Sulochana Devi, the parents of deceased-Kundan Singh.

4. The learned Commissioner after clubbing both the claim cases proceeded to decide the case by a common order which is under challenge in the present two appeals.

5. Brief facts of the case are that the deceased-Kundan Singh was working as an Electrician under the Respondent-National Building Construction Corporation Limited which had received a works contract from the Respondent-NTPC, Seepat. On 20.12.2005 in the course and arising out of his employment, an accident occurred as a result of which the deceased-Kundan Singh sustained grievous injuries to which he succumbed. The employer accepting the death of the deceased to be an accidental death in the course of his employment, calculated the compensation to be paid under the provisions of the Workmen's Compensation Act and deposited an amount of Rs. 3,05,405/- before the learned Commissioner on 10.1.2006.

6. Subsequently, two sets of claim cases were filed; one by Smt. Lalita Singh claiming herself to be the wife of deceased-Kundan Singh and the another by the father-Prakash Singh and mother-Smt. Sulochana Devi. The learned Commissioner vide the impugned award dated 29.10.2007 has ordered for release of the compensation of Rs. 3,05,405/- to the claimants and apportioned the compensation by 2/3rd to the wife and 1/3rd to the parents, that is to say, an amount of Rs. 2,05,105/- was awarded to the wife and Rs.50,000/- each totaling to Rs.1,00,000/- was awarded to the parents.

7. It is this award which is under challenge in the present appeals.

8. According to wife-Smt. Lalit Singh, the award granted to the parents is erroneous and illegal on the ground that they are not the dependants of the deceased. That there was no sufficient evidence to show the dependency and that she was entitled for the entire compensation which was deposited. It was further contended that the father of the deceased, namely, Prakash Singh, was an employed person and was living far away at his native place in the State of Bihar and it was the wife-Smt. Lalita Singh alone who was staying with the deceased at the time of accident. According to her, the learned Commissioner has wrongly reached to the conclusion that the parents of the deceased were partly dependant on the earning of the deceased, as the father of the deceased himself was an employed man and had sufficient source of income for his living and thus not being dependant the entire amount deposited by the employer should had been awarded in favour of the wife.

9. As regards the appeal preferred by the parents, it was vehemently contested by the learned counsel for the parents that the claim case filed by Smt. Lalita Singh is a false case inasmuch as their son, the deceased-Kundan Singh, was a bachelor and was not married. That Smt. Lalita Singh has put up her claim with fake and fabricated documents to establish that she is the legally wedded wife of the deceased. According to the parents, Smt. Lalita Singh has conspired with the witnesses who have been examined on her behalf and had got certain documents created with the sole intention of receiving the entire amount of compensation. According to the parents, the deceased had never got married to Smt. Lalita Singh and that there was no record to prove or evidence of any manner with which it could be said that the deceased had ever married Smt. Lalita Singh. According to the parents, the learned Commissioner did

not grant sufficient opportunity to lead evidence to prove that the deceased had never married Smt. Lalita Singh and that her claim of being widow of the deceased was on false and fabricated documents and that their claim for calling upon certain witnesses in this regard was also rejected by the Court below and proceeded to decide the claim ignoring the contentions which have been raised by them. According to the parents, Smt. Lalita Singh has impersonated herself to be the wife of the deceased while in fact she was not Lalita Singh but was Rekha Devi Patel and was the wife of one Navin Singh. That she was not in any manner related or connected to the deceased-Kundan Singh much less of being his wife. Thus each of the parents prayed for setting aside of the award and for ordering of the entire compensation to be paid to them without being apportioned in any manner.

10. Considered the rival contentions put forth on either side and perused the record of the case. Though both these appeals were admitted on 18.2.2008 but no substantial question of law was framed at that point of time. Thus, the core issue which have to be considered by this Court while hearing the two appeals are:

- (i) Whether the issues and contentions put forth by the appellants in both the appeals are question of law or finding of fact?
- (ii) Whether there was sufficient material produced before the learned Commissioner with which it could be said that Smt. Lalita Singh has sufficiently established of being the wife of the deceased-Kundan Singh entitling her for compensation?

11. A perusal of the record would show that in the claim case filed by Smt. Lalita Singh apart from her own statement she had also got examined one Intishar Khan, a supervisor in the National Building Construction Corporation Limited, the company in which the deceased was also working. So far as the claim of the parents is concerned, it was only the

mother and father of the deceased, namely, Prakash Singh and Smt. Sulochana Devi, who were examined. A perusal of the evidence of Intishar Khan reveals that he has categorically deposed that he was an employee working as a supervisor at National Building Construction Corporation Limited and that the deceased was also working in the said company. That he was residing at the same vicinity where the deceased used to live along with Smt. Lalita Singh. He has further deposed that the deceased had introduced Smt. Lalita Singh to him as his wife. Further, from the record what is available is that the employer had deposited the compensation through cheque on 10.1.2006. That while depositing the compensation itself they had shown the name of Smt. Lalita Singh as the wife of the deceased and Prakash Singh as the father of the deceased. The said depositing of compensation was on a letter issued by the Deputy General Manager of National Building Construction Corporation Limited.

12. Now, when we peruse the statement of Prakash Singh and Smt. Sulochana Devi, the parents of the deceased, there is too much contradictions and omissions inasmuch as though both have stated that Smt. Lalita Singh was not in fact Lalita Singh but was in fact known as Rekha Devi Patel, however, Prakash Singh in his statement states that Rekha Devi Patel or Lalita Singh was in fact the wife of one Navin Singh and Navin Singh was a close friend of the deceased. This fact is not found in the statement of the mother-Smt. Sulochana Devi.

13. Another striking feature which is reflected from the evidence is that in spite of knowing fully well that Smt. Lalita Singh in fact was Rekha Devi Patel and that she has impersonated herself as Lalita Singh and also impersonated as the wife of the deceased, the father of the deceased had never filed any complaint before any of the authorities neither had he filed any objection in this regard before the employer under whom the deceased

was working, which itself gives rise to a great element of doubt on the contentions which have been raised by the parents of the deceased. It is beyond comprehension that any father would not file a complaint before any of the authorities concerned when he comes to know that a fake person is projecting herself as the wife of his son when in fact she was a wife of another person (Navin Singh), with the sole intention of claiming the compensation which has been deposited by the employer.

14. Further, what also cannot be brushed aside is the fact that immediately after the accident in about a fortnight period the employer had deposited the compensation before the Commissioner and at that time itself the name of Lalita Singh was reflected as the widow/wife of the deceased.

15. It appears that the deceased had married Lalita Singh without the consent or may be even without the knowledge of his parents and they were finding it difficult to accept her as their daughter-in-law or as the wife of the deceased and therefore have raised these objections and that too only in the proceeding before the Court below. Whereas, the claimant Smt. Lalita Singh in support of her claim had filed a photograph of her dressed as a bride with the photograph of the deceased, which appear to be a photograph taken at the time of their marriage. In addition, there is also a certificate issued by the Sarpanch of Gram Panchayat Seepat certifying that the deceased-Kundan Singh along with Smt. Lalita Singh was a resident of that village and were residing together, along with her own affidavit duly sworn in before a Notary in this regard, all of them have been duly marked and exhibited before the Court below. All these facts and evidence were sufficient to prove that Lalita Singh was the wife of the deceased.

16. So far as the appeal of the claimant-wife is concerned, from the documents submitted by the employer while depositing the compensation as also from the evidence which have come on behalf of the parents, it is sufficiently proved that Prakash Singh and Smt. Sulochana Devi are the father and mother of the deceased.

17. Thus, for all the aforesaid reasons, this Court has no hesitation in reaching to the conclusion that the finding arrived at by the learned Commissioner is based on the factual matrix which have been brought on record by the parties and the same thus becomes a finding of fact. Section 30 of the Workmen's Compensation Act which provides for filing of an appeal against the order passed by the Commissioner for Workmen's Compensation Act clearly envisages that an appeal would lie to the High Court only in the event if there is substantial question of law. In the given factual matrix of the case, this Court is of the opinion that there is no substantial question of law as such which crops up for consideration while assailing the impugned award. Another reason which forces this Court not to interfere with the impugned award is that though these appeals are of the year 2007 and 2008 and the award being passed about 10-11 years ago, there was no interim order granted by this Court and the amount has been immediately released to the respective claimants.

18. The present two appeals thus being devoid of merits the same are accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge