

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 555 of 2008**

1. Executive Engineer, Public Works Department, (BHA/SA) Division, Balod, Tehsil, PS & Post Balod, Distt. Durg (CG).
2. Sub Divisional Officer, Public Works Department (BHA/SA) Division Balod No. 1, Tehsil - P.S. & Post - Balod, District - Durg (C.G.)

---- Appellants**Versus**

1. Smt.Manbha Bai W/o late Ramprasad Caste, Ganda, R/o village Kamta, Tehil, Post & Village Lohara, Distt. Durg (CG).
2. Ku. Vaishnavi D/o late Ramprasad Caste, Ganda, aged 9 years Minor Through Legal Guardian Mother Smt. Manbha Bai, D/o Late Ramprasad, R./o Village - Kamta, Tehsil. Post & P.S. - Lohara, District - Durg (C.G.)

---- Respondents

For Appellants	:	Shri D.R. Minj, Deputy Govt. Advocate.
For respondents	:	Shri Suresh Tandon, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Judgment On Board****24.10.2017.**

1. The present is an appeal under Section 30 of the Workman Compensation Act, 1923 (for short, WC Act) against the award dated 15.10.2007 passed by the Commission for Workmen Compensation, Labour Court, Durg in case No.132/Cate-B-1/WC Act/2005 (Fatal). Vide the said impugned award, the Commissioner in a claim case has awarded a compensation of Rs.1,84,409/-.
2. The appeal has been preferred by the State since the deceased was working as daily wage worker under the Public Works Department of the State Govt. and was involved in the construction of roads as is evident from the witnesses who have been examined by the claimants. The appeal was admitted by this court on 20.02.2014 on the following

substantial question of law :

“Whether, the Commissioner has erred in law in holding that the death of the deceased was accidental arising out of and during the course of employment?”

3. Learned counsel appearing for the appellants submits that it is a case where the claimants have not been able to prove direct nexus between the cause of death and the nature of employment. According to him, since the deceased died a natural death and there was no accident which had resulted into his death, the provisions of WC Act could not have been invoked. It is a case where the deceased died of heart attack which would not fall within the ambit of Section 3 of the WC Act which requires an accident to arise out of and take place during the course of employment. In the instant case there is no such accident which has arisen which led to death of the deceased.
4. The appellants has relied upon the two decisions of the Supreme Court in cases of *Malikarjuna G. Hiremath Vs. Branch Manager, Oriental Insurance Co. Ltd. & Another*, 2009(13) SCC 405 and *Rashida Haroon Kupurade Vs. Divisional Manager, Oriental Insurance Co. Ltd. & Ors.* 2010 (13) SCC 271.
5. Counsel for the respondents however opposing the appeal submits that it is a case where the findings of the Commissioner is purely based on the facts and evidence which have come on record and therefore, the appeal deserves to be rejected holding that there is no substantial question of law made out.
6. Having heard the rival contentions put forth on either side and on perusal of records what is relevant to be considered at this stage is

whether the deceased died because of the accident arising out of or in the course of employment?. The evidence which have come on record particularly that of the claimant's side as also the other witnesses who were working along with the deceased who have also been examined and who have stated that the deceased was working at a distance of 22-24 KM away from his house and he used to go to the site sometimes by Jeep and at times on his bicycle. The time when the deceased suffered heart attack was afternoon which would reflect that the deceased have already put in more than couple of hours of strenuous work on duty.

7. The evidence which have come on record would show that the deceased was working with road construction team and that the nature of work must have put the deceased under accelerated stress and strain of the working conditions more particularly the month of incident being July which is otherwise a hot season must have aggravated the physical condition of the deceased leading to a heart attack.
8. The two judgments cited and relied upon by the appellants are on entirely different footing. *Malikarjuna G. Hiremath (Supra)* is a case where the driver in the course of taking bath at a pit slipped from the staircase and fell in the pond and died. In case of *Rashida Haroon Kupurade (Supra)* the death of the deceased was after about six months time from the date of accident. Thus, the Supreme Court in both the aforesaid judgments have cited that there was no causal connection or direct nexus between the nature of employment and the cause of death whereas, in the instant case there is a direct nexus of

the nature of employment and cause of death looking to the time of heart attack i.e. afternoon when the deceased had already put in more than couple of hours of strenuous work. All these must have put pressure or aggravated the conditions of the deceased which must have resulted in a heart attack. Thus, the two judgments relied on are completely distinguishable on its own facts.

9. In view of the aforesaid factual matrix of the case, this court is of the opinion that the substantial question of law framed by this court is answered in the negative and it is held that the Commissioner has not committed any error in holding that the deceased had died because of accident arising out of and in the course of his employment.
10. The appeal of the State/appellants thus being devoid of merit is liable to be and is hereby dismissed.

Sd/-
(P.Sam Koshy)
Judge