

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 1414 of 2009**

State of Chhattisgarh, Through: The Executive Engineer, Public Works Department, (Bha/Sadak), Kanker Division, Chhattisgarh

---- Appellant**Versus**

1. Smt. Tiharin Bai, W/o. Lakhan Lal, Aged about 38 years, R/o. Mandabhari, Post Mawlipara, Tahsil Naharpur, District Kanker, Chhattisgarh. Presently residing at Village Sondur (Mechka), P.O. Sondur, Tahsil Nagri, District Dhamtari, Through: Gulab Singh.
2. Smt. Kaushlya Devi Gupta, W/o. R.P. Gupta, R/o. Tikrapara, Kanker, Chhattisgarh.

----Respondents

For State	:	Mr. B. Gopa Kumar, Dy. A.G.
For Respondent No.1	:	Mr. Malay Kumar Bhaduri, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****18/09/2017**

1. Present is an appeal under Section 30 of the Workmen's Compensation Act assailing the award dated 25.06.2008, passed by the Commissioner for Workmen's Compensation-cum-Labour Court, Raipur, in case No. 1B/146/W.C.Act/04/Fatal.
2. Vide the impugned award, the Tribunal has fastened the liability upon the appellant-State Government for payment of compensation of Rs.1,69,785/-. It also ordered that in the event if the amount not being deposited within the stipulated period, the amount shall carry interest @ 7% per annum.
3. The appeal was admitted in the year 2012 with the following substantial question of law:

"Whether the impugned award/order dated 25.06.2008 is perverse on the findings of facts and law especially considering the fact that the deceased was under the employment of non-applicant No.2 ?"

4. A perusal of the record would show that undisputedly the Tractor belonged to the respondent No.2-Smt. Kaushlya Devi. It is also not in dispute that the Tractor was engaged by the appellant for the scheme under Rural Employment and the deceased Rajesh Kumar was also engaged under the said scheme and was assigned the job of loading Muroom in the Tractor, which was to be used for the development work in the village. In the process of loading, the Trolley turned turtle, as a result of which the loader Rajesh Kumar sustained grievous injuries to which he later succumbed.
5. The contention of the counsel for the appellant is that the deceased was in direct employment of the respondent No.2, the owner of the Tractor and therefore, there was no employer-employee relationship between the appellant and deceased and therefore the liability should have been fastened upon the owner of the Tractor. It was also the contention of the counsel for the appellant that there is some error shown so far as the father's name of the deceased as is reflected from the records of the State Government.
6. The appellant has not led any evidence before the Commissioner to substantiate the contentions, which they have raised. In the absence of any evidence being brought by the appellant, the contentions raised by the appellant cannot be accepted as strong ground for interference with the impugned award and therefore the same may not also fall within the ambit of a substantial question of law.
7. In view of the same, this Court is of the opinion that since the appellant has failed to establish his contentions by leading evidence before the Commissioner Court below, the grounds raised by the appellant in the present appeal would not be tenable and the same deserves to be and is accordingly rejected.
8. The question of law framed thus stand answered in the negative in as much as the deceased was found to be in employment of the appellant when he met with the accidental death.

Sd/-
(P. Sam Koshy)
Judge