

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No.1002 of 2017

Vijay Kumar Agrawal S/o Dr.Hridya Narayan Agrawal, aged about 71 years, proprietor of M/s. R.C.C. Hume Pipe & Products, R/o. Lal Bagh Jagdalpur District Bastar (C.G.) (Employer).

---Appellant

Versus

1. Smt.Tulawati Baghel Wd/o Saniya Baghel, aged about 48 years, R/o Shanti Nagar Mother Teresa Ward, Jagdalpur, District Bastar (C.G.) (Claimant).
2. United India Insurance Company Limited, Branch Office Anpurna Chowk, Jagdalpur, District Bastar (C.G.).

---Respondents

For appellant	:	Shri P.K.Tulsyan, Advocate.
For respondent No.1	:	Shri Keshav Gupta on behalf of Shri Praveen Dhurandhar, Advocate.
For resp.No.2/Insurance Company	:	Shri B.N.Nande, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14/12/2017

1. Present is an appeal under Section 30 of the Workman Compensation Act, 1923 assailing the award dated 21/10/2016 passed by the learned Commissioner for Workman Compensation, Labour Court, Jagdalpur in case No. 44/2015/E.C.Act/Fatal.
2. The counsel for the appellant submits that, the matter pertains to an accident that took place on 22/10/2014 as a result of which the deceased – Sania Baghel succumbed to the injuries suffered by her. The Industrial Health and Safety Department so also the Insurance Company was

immediately intimated about the accident by the employer. Subsequently, the Industrial Health and Safety Department is said to have sent an intimation to the employer for payment of compensation to the family members of the deceased. When the employer did not comply with the order, the Health and Safety Department of the State Government refers the matter to the Labour Court for initiating appropriate recovery proceedings against the appellant/employer. Meanwhile, the claimants also filed a claim application before the same Commissioner for Workman Compensation where the matter was registered as case No.43/2015/E.C.Act/Fatal where the respondent No.2/Insurance Company was also a party and which entered appearance and had taken time to file reply. That on 20/10/2016 during the course of hearing of the two cases i.e. one filed by the claimant and the other filed at the behest of the Health and Safety Department of the State Government one of the claim petition the one filed by the claimant i.e. Claim Case No.43/2015 was withdrawn by the claimant on the ground that, the other claim application i.e. the claim was already pending consideration before the Labour Court.

3. In the present case, the Insurance Company was not made a party and the final award was passed on 21/10/2016 itself i.e. on the very next date when the claimants claim case was disposed off as not pressed.

4. The counsel for the appellant submits that, it is a case where the appellant has a valid Insurance Policy in his favour for the relevant period and that any compensation passed by the Commissioner would have to be paid by the Insurance Company on the basis of the policy that has been

taken by the appellant. That since the Insurance Company was not made a party, the liability has been fastened upon the present appellant who has also discharged his liability by depositing the entire amount before the Commissioner. He further submits that, since he had a valid Insurance Policy, the liability so far as the principle amount is concerned, should have been shifted upon the Insurance Company and since the Insurance Company was not made a party before the Court below, the matter may be remitted back so that he gets an opportunity of impleading the Insurance Company as a party and the Commissioner for Workman Compensation can decide the liability aspect of payment of compensation accordingly.

5. The ground raised by the counsel for the appellant seems to be fair and reasonable and accordingly since, the entire amount has already been deposited before the Labour Court, this Court is of the opinion that ends of justice would meet if, the matter is remitted back to the Commissioner for Workman Compensation, Labour Court, Jagdalpur for reconsideration of the case only on the aspect of liability. The appellant herein shall have the liberty to move an appropriate application for impleading the Insurance Company as a necessary party and after the Insurance Company has made a party, they shall also be given an opportunity to file their WS in respect of their contention so far as liability aspect is concerned.

6. The registry is directed to send the record back to the Labour Court, Jagdalpur (C.G.) forthwith.

7. Since the parties are present before this Court, they are directed to appear before the Commissioner for Workman Compensation, Labour Court, Jagdalpur on 30/01/2018.

8. The appeal stands partly allowed and disposed off.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE