

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1618 OF 2008

- The Oriental Insurance Company : through - the Divisional Manager, Divisional Office No.2, Chawla Complex, Sanyee Nagar, Raipur, through the Divisional Manager, Oriental Insurance Company Limited, Divisional Office- Bilaspur (C.G.)

... Appellant

versus

1. Javantin Bai, Wd/o Govind Ram Verma, aged about 48 years
 2. Tukaram, S/o Govind Ram Verma, aged about 25 years
 3. Rajendra S/o Govind Ram Verma, aged about 20 years
 4. Jeevan Lal, S/o Narayan Prasad Verma, aged about 70 years
 5. Keshar Bai, W/o Jeevan Lal Verma, aged about 68 years
- Respondent No. 1 to 5 are the residents of Village Nawagaon, P.O. Beldar Shivni, P.S. Kharora, District Raipur (C.G.)
6. Prahlad Kumar Verma, S/o Late Govind Ram Verma, age not described, R/o Village and Post Office Kharora, near Ram Leela Chowk, Raipur (C.G.)

... Respondents

For Appellant	:	Ms. Chitra Shrivastava, Advocate.
For Respondent No.6	:	Mr. Amiyakant Tiwari, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09/10/2017

1. The present is an appeal under Section 30 of the Workmen's Compensation Act, 1923, preferred by the appellant-insurance company, assailing the award dated 13.8.2007 passed by the Commissioner for Workmen's Compensation, Labour Court, Raipur, in Case No. Cat.1/B/185/03/W.C.Act/Fatal.
2. Vide the impugned award dated 13.8.2007, the learned Commissioner in a proceeding under Section 10 of the Workmen's Compensation Act, in a death case, has awarded a compensation of Rs. 1,62,672/- to the claimants, with a penal interest of 9% per annum in case the amount awarded is not deposited within a period of 45 days.
3. Facts of the case in brief are that the deceased-Govind Ram Verma while working as a driver of Jeep No. CG04-ZA-2564 met with an accident on 27.8.2003 and suffered grievous injuries to which he later on

succumbed. A claim case therefore was filed by the respondent-claimants under Section 10 of the Workmen's Compensation Act before the learned Commissioner, which stands adjudicated upon vide impugned award dated 13.8.2007.

4. The primary contention of the appellant-insurance company assailing the impugned award is that the learned Commissioner has erred inasmuch as not appreciating the fact that the deceased is the father of respondent no.6 who was also the non-application no.1 before the Court below. According to the insurance company, the fact that the deceased, who is the father of respondent no.6, was an employee under his son is hard to believe and the impugned award deserves to be set aside on this ground alone. Further contention of the insurance company is also on the aspect that the claimants have not been able to prove the employer-employee relationship so as to attract the provisions of the Workmen's Compensation Act and thus prayed for setting aside of the impugned award and exonerating the insurance company of its liability.

5. Learned counsel appearing for respondent no.6 however submits that the contentions raised by the insurance company have been duly dealt with by the learned Commissioner and as such the same have become a finding of fact and there is no evidence led by the insurance company to dispute the employer-employee relationship or, for that matter, that the deceased was not discharging the duties of a driver at the time of accident.

6. The present appeal was admitted on 26.9.2012, however, no substantial question of law was framed.

7. The question of law raised by the insurance company are, whether there is sufficient material to prove the employer-employee relationship and whether the deceased could have been an employee under his son i.e. respondent no.6?

8. A perusal of the records reveals that the appellant-insurance company has not led any evidence to prove the contentions which they have raised in the present appeal. There is no evidence to show that there was no employer-employee relationship, neither is there any evidence to disprove the fact that the deceased was not a driver.

9. Since the facts are all admitted and are all finding of fact, this Court does not find any question of law made out much less a substantial question of law for interfering with the impugned award.

10. The appeal of the insurance company thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge