

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No.1627 of 2017

The Oriental Insurance Co.Ltd. Branch Laxman Avenue, Maharani Medical College Road, Jagdalpur, District Bastar (C.G.).

---Appellant

Versus

1. Smt.Nesat Parveen Wd/o Late Sajad Khan, aged about 40 years.
2. Sahbaaz Khan S/o Late Sajad Khan, aged about 20 years.
3. Ku.Farha Tabassum D/o Late Late Sajad Khan, aged about 18 years.
4. Ku.Arshida Khatun D/o Late Sajad Khan, aged about 15 years.
5. Ku.Arsadi Khatun D/o Late Sajad Khan, aged about 13 years.
6. Ku.Rozi Khatun D/o Late Sajad Khan, aged about 10 years.

Respondents No.4 to 6 are minor and represented through their natural guardian/mother Smt.Nesat Parveen.

All are R/o Parpa Naka, Guru Govind Singh Ward, Jagdalpur, District Bastar (C.G.).

7. Rameshwar Lal Gandhi S/o Jethmal Gandhi, aged about 53 years, R/o Moti Talaab Para, Jagdalpur, District Bastar (C.G.).
Permanent Address Village & Post Dornapal, District Dantewada (C.G.).

---Respondents

For the appellant : Shri R.N.Pusty, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

29/11/2017

1. Present is an appeal by the Insurance Company under Section 30 of the Employees Compensation Act, 1923 assailing the award dated 23/08/2017 passed by the learned Commissioner, Employees Compensation-Cum-Labour Court, Jagdalpur, District Bastar (C.G.) in Claim Case No.48/2014/W.C.Act/Fatal.

2. Vide the said impugned award, the learned Labour Court in a death case has awarded a compensation of Rs.6,77,760/-

3. The challenge in the present appeal substantially are on two grounds. Firstly, there is a doubt on the identity of the deceased person and secondly, the income assessed while quantifying the compensation is on the higher side.

4. The counsel for the appellant submits that, the accident in the instant case has occurred at a village Sugrivula, District East Godavari in the State of Andhra Pradesh. He further submits that, the criminal record in respect of the accident including the record of the criminal case were in the regional language i.e. Telugu and it was not translated and produced before the learned Commissioner to ascertain the actual identity of this claimant. He further submits that, subsequently, the Insurance Company had got the documents translated and it was found that, the name of the deceased in the said documents was different than what has been claimed by the claimants. He further submits that, the name of the deceased has been differently spelt in different documents including Aadhar Card and therefore also there is an element of doubt in respect of identity of the deceased person.

5. So far as the second ground is concerned the counsel for the appellant submits that, the learned Commissioner has without any substantial basis has assessed the income of the deceased at Rs.8,000/- which is much more than the minimum income that is fixed for an skilled labour during the said period i.e. in the year 2014.

6. Perusal of record show that, the Insurance Company in the instant case had produced the entire record and have categorically averred that, the deceased in the instant case was a Truck driver bearing registration No.CG-17-H-1417 and was working under Rameshwar Lal Gandhi. This fact was not disputed by the respondent No.7 in the instant appeal, the owner of the said Truck and the employer.

7. In the absence of any evidence in rebuttal or contradiction by the owner, it has been presumed that the deceased was the driver of the said vehicle, employed by the respondent No.7. Further it is also not in dispute that, the Truck belonging to the respondent No.7 did met with an accident on 18/05/2014 in the State of Andhra Pradesh.

8. All these grounds strengthens the case of the claimant so far as the accident and the death of the deceased – Sajad Khan from the said accident.

9. The next ground which the counsel for the appellant/Insurance Company raised is that of the translated version of the criminal record. However there is no definite opinion or conclusive evidence led by the counsel for the appellant that the person who has died in the accident in Andhra Pradesh and the driver of the Truck involved in the accident was an entirely different person and not the deceased of whom the legal representatives are the claimants.

10. In the given facts and circumstances of the case, the ground so raised by the counsel for the appellant is not sustainable and the same stands negated.

11. As far as the salary part is concerned, it is only Rs.8,000/- which has been assessed by the learned Commissioner while quantifying the compensation in 2014. It is anybody's guess that a driver of heavy goods vehicle would had been earning much more than what has been assessed by the learned Commissioner. Even otherwise, during the said period, an unskilled labour would had been getting income of around Rs.250/- per day i.e. Rs.7,500/- per month. Therefore, the said ground of an excessive assessment of income also does not have sufficient force.

12. This Court does not find any strong case worth admitting the appeal. The appeal thus fails and is accordingly rejected.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE