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HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Appeal (C) No. 543 of 2008

The Oriental Insurance Company Ltd., Jagdalpur through its Divisional Manager, Divisional Office No.II, Chawla Complex, Devendra Nagar Road, Raipur, District Raipur, (Chhattisgarh)

---- Appellant

Versus

1. Shri Dalsai, 50 years, S/o Shri Dasmu, R/o village Amabal, Police Station Bhanpuri, Tahsil Jagdalpur, District Bastar, Chhattisgarh
2. Smt. Badri Bai, 45 years, W/o Shri Dalsai, R/o village Amabal Bhanpuri, Tahsil Jagdalpur, District Bastar, Chhattisgarh
3. Shri Jayant Joshi, age not known, S/o not known (not described in the cause title of the Court below) Contractor Department of Electricity, near Mahavir Vatika, near Motitalabpara, Jagdalpur, Baster, Chhattisgarh

---- Respondents

For Appellant	:	Smt. Chitra Shrivastava, Advocate
For Respondents 1 & 2	:	Shri Vikram Dixit, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

18/08/2017

Present is an appeal preferred by the Insurance Company assailing the award dated 12.05.2006 passed by the Commissioner for Workmen's Compensation, Labour Court, Jagdalpur (CG) in Civil Case No. B/50/W.C.Fatal/1/2004. Vide the impugned award, the Commissioner in a death case filed by the parents of the deceased has awarded a compensation of Rs.1,96,623/- with interest @ 6% per annum.

2. The brief facts of the case are that the deceased Jagbandhu was working as a labour under respondent no.3 who was a labour contractor as also advertising contractor. During the course of execution of his contract work, the said Jagbandhu fell from the electric pole as a result of which he received grievous injuries to which he later succumbed. The claim case was filed by the parents of the deceased which was decided vide impugned award dated 12.05.2006.

3. The challenge by the Insurance Company is that the nature of work which was being performed by the deceased at the time of accident was not in fact covered under the policy which was issued by the appellant Insurance Company. According to the counsel for the appellant, the nature of work for which the policy was issued was pertaining to advertisement related work. But, in the instant case, the accident arose during the course of laying electricity line by the deceased which was not the nature of the contract or the risk covered under the policy issued by the Insurance Company. Thus, counsel for the appellant prayed for exoneration of the Insurance Company of its liability of payment of compensation.

4. Counsel for the claimants submits that he is a formal party and in fact the dispute raised by the appellant is an interse dispute between the insurer and the insured.

5. Having heard the counsel for the appellant it would be necessary to refer to the policy which was issued by the appellant in favour of respondent no.3. The policy was marked before the Court below as Exhibit D-2 and the proposal form issued by the Insurance Company in this regard was also marked as Ex.D-1. A perusal of these two documents would show that the description of the employer i.e. respondent no.3 has been shown only as a contractor. The policy further reflects that it covered the risk of 10 workers engaged by respondent no.3 and the premium for covering the risk of 10 person was paid to the Insurance Company while issuing the said policy. The policy or the proposal form nowhere states that the nature of work which would be executed by respondent no.3 would be confined to the advertisement and advertisement related work whereas the respondent no.3 in fact has been shown to be a labour contractor.

6. What is also relevant from the record is that the Insurance Company, in the present case, has not led any evidence before the Labour Court to substantiate their contention. On the contrary, the claimants have led their statement. In addition to two other workers who were working at the time of accident were also examined. In the light of the evidences which have come on record and the fact that there is no evidence in rebuttal or to disprove the stand of the claimants and also to establish the fact that the nature of the policy issued was not covering the risk of the workers engaged by the contractor at the time of accident, this Court is of the opinion that the insurance Company has not made out a strong case calling for interference with the impugned award.

7. As a consequence, the substantial questions of law framed by this Court while admitting the appeal on 06.12.2012 are answered against the Insurance Company.

8. Thus, the appeal fails and the same is accordingly dismissed.

Sd/-
(P. Sam Koshy)
JUDGE

Bhola