

**HIGH COURT of CHHATTISGARH, BILASPUR****MAC No. 317 of 2018**

1. Prabha Devi Wd/o Late Nandlal Aged About 28 Years
  2. Raju S/o Late Nandlal Aged About 6 Years
  3. Kaju S/o Late Nandlal Aged About 4 Years
- Respondents No.2 & 3 are minor Through Natural Guardian Mother Prabha Devi Wd/o Late Nandlal,  
All R/o Village Bijalhawa (Kuniya), Police Station and Tahsil Kamleshwarpur, District Surguja, Chhattisgarh.

**---- Appellants****Versus**

1. Ramkumar S/o Amarjeet Aged About 30 Years R/o Bijalhawa (Kuniya) Police Station And Tahsil Kamleshwarpur, District Surguja, Chhattisgarh.
2. Chief Municipal Officer Janpad Panchayat Kamleshwarpur, District Surguja, Chhattisgarh.
3. Secretary Janpad Panchayat Kamleshwarpur, District Surguja, Chhattisgarh.

**---- Respondents**


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For Appellants : Shri Anurag Singh, Advocate.

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**Hon'ble Shri Justice P. Sam Koshy****Judgment On Board****21.02.2018**

1. The present appeal under Section 30 of the Employees Compensation Act, 1923 (in short, the Act, 1923) has been filed by the claimants against the order dated 14.12.2017 passed by the Commissioner for Workmen Compensation, Labour Court, Ambikapur in Case No.44/WC Act/2011/ Fatal. Vide the impugned order, the Commissioner has rejected the claim application on the ground that employment part has not been established, nor has the claimants been able to establish that the accident arose in the course of and out of employment.

2. The facts of the case is that the deceased Nandlal is said to have been working under the respondent No.1 as Munshi. On the fateful day i.e. on 16.12.2010 the deceased had gone to the Bank to ascertain whether his salary part has been credited in his bank account or not and while returning from the Bank, the motorcycle in which he was travelling dashed a Street Dog crossing the road on account of which he fell on the road and sustained grievous injuries to which he later succumbed.
3. The primary requirement for maintainability of a claim application under the Act, 1923, is fulfillment of conditions as enumerated under Section 3 of the Act, 1923. The requirement is that, there has to be an accident and the accident should result in the death or injury of a workman. Further, what is also required is the fact that the accident should also arise out of and in the course of the employment.
4. In the instant case, the nature of work of the workman was that of a Munshi, his place of employment was within the office of the alleged employer-respondent No.1. His nature of employment did not require him to be on the place of accident on the fateful day. Further, what is also relevant to be seen is that it is a case where the deceased travelling on the motorcycle was hit by a street Dog crossing the road, which by no stretch of imagination can be said to be an accident arising out of employment. Even if it is presumed that the accident occurred in the course of employment, but then the accident did not arise out of employment.
5. Unless both these factors are available, the claim application under

the provisions of the Act, 1923 is not maintainable.

6. Accordingly, this court has no hesitation in reaching to the the conclusion that the findings arrived at by the Commissioner does not seem to be either perverse or contrary to the evidence.
7. Under the given circumstances, this court is of the opinion that no strong case is made out worth admitting the appeal. The appeal deserves to be and is hereby rejected.

**Sd/-**

(P.Sam Koshy)  
**Judge**

inder