

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 613 OF 2011

Divisional Manager, National Insurance Company Limited, 1st Floor Complex, near Gurudwara Road, Durg, Tah. & Distt. Durg (C.G.) (Insurer of the Truck No. CG07-ZC-2660)

... Appellant

versus

1. Kaushal Prasad Sahu, S/o Late Dalaram Sahu, aged 25 years, Village Kuthrel, P.S. Anda, Tah. & Distt. Durg (C.G.)
2. Pushpa Bai, D/o Late Dalaram Sahu and W/o Roshanlal Sahu, aged 23 years, R/o Agesara, P.O. Arkar, P.S. Ranchirai, Tah. Patan, Distt. Durg (C.G.)
3. Murari Lal Bhutada, S/o Late M.L. Bhutada, R/o Ganjpara, Durg, P.S. Tah. & Distt. Durg (C.G.) (Owner of the Truck No. CG07-ZC-2660)

... Respondents

For Appellant	:	Mr. Dashrath Gupta, Advocate.
For Respondents No. 1 and 2	:	Mr. P.R. Patankar, Advocate.
For Respondent No.3	:	Mr. R.K. Pali, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

11/01/2018

1. The present is an appeal under Section 30 of the Workmen's Compensation Act, 1923 (Unamended), filed by the appellant-insurance company assailing the award dated 4.3.2011 passed by the Commissioner, Workmen's Compensation-cum-Labour Court, Durg, in Case No. 169/2007/W.C.Act/Fatal.
2. Vide the impugned award, the learned Commissioner, in a death case, has awarded a compensation of Rs.2,80,350/- to respondents no. 1 and 2/claimants and it also held that in the event if the amount of compensation is not deposited within one month then the same shall carry interest at the rate of 10% per annum from the date of accident.
3. The present appeal was admitted by this Court on 28.6.2012 on the following substantial question of law:

“Whether the Commissioner for Workmen Compensation was justified in awarding compensation in favour of respondents No. 1 and 2 holding deceased Dalaram Sahu died on 25.12.2008 on account of the injuries sustained by him in the motor accident dated 19.2.2007”

4. Contention of the learned counsel for the appellant-insurance company assailing the award is that the accident in the instant case took place on 19.2.2007 and the deceased died on 25.12.2008. It is also the contention of the learned counsel for the insurance company that the cause of death of the deceased was not on account of accidental injuries that was sustained on 19.2.2007 and therefore the claimants would not had been entitled for compensation in a fatal case as it was not related to the accidental injuries or the injuries caused during the course of employment. Learned counsel for the insurance company referring to the statement of the doctor who was examined, submits that there was no conclusive proof of the cause of death of the deceased and that the doctor has not proved the case of the claimants death having been caused because of the injuries that the deceased had suffered on 19.2.2007. It was also contended that the employment of the deceased also was in doubt as the deceased had made a statement that he was working under one Mohanlal Rathi and on this ground also the award does not seem to be proper and the same deserves to be set aside.

5. Per contra, learned counsel for respondents no. 1 and 2/claimants referring to the statement of the deceased as well as the son of the deceased, pointed out that the deceased on 19.2.2007 had met with an accident while he was removing the stepney from the vehicle for replacing it with the tyre on the truck however the said stepney fell upon his stomach and leg resulting in grievous injuries to him. Learned counsel for the claimants further refers to the statement of the son of the deceased, who had categorically deposed that as a result of the accident, the lower part of

the intestine as well as leg of the deceased got crushed and that the deceased was passing problem in urinating and this problem persisted and he was undergoing treatment for this.

6. If we read the statement of the son of the deceased as also the doctor who has also deposed that the kidney and liver of the deceased got damaged which had aggravated for the death of the deceased, it would clearly establish that as a result of the problem of not passing urine regularly the deceased must have developed kidney problem which ultimately led to the death of the deceased and as such there is a direct relationship between the accidental injuries caused on 19.2.2007 and the cause of death that took place on 25.12.2008. In the given factual matrix of the case and the same being finding of fact, this Court is of the opinion that the learned Commissioner for Workmen's Compensation was justified in awarding the compensation in favour of the claimants.

7. As regards the other grounds raised the same may not be acceptable as that was not the question of law framed while admitting the present appeal and it was admitted only on the issue of whether the Commissioner for Workmen Compensation was justified in awarding compensation for his death on 25.12.2008 for an accident that took place 19.2.2007. In view of the same, the substantial question of law framed by this Court is answered in the affirmative, holding that the Commissioner for Workmen's Compensation was justified in awarding the compensation.

8. The appeal thus being devoid of merits the same deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge