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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (L) No. 229 of 2018

Ramji Dhritlehre S/o Late Ramdayal Dhritlehre, Aged About 68 Years, R/o Village Janji, Bodsara, Tehsil Bilha, District Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. Manokaamna Agrotech Pvt. Ltd. Through Its Manager, R/o Village Khajri, Post Pandhi, Sipat Road, District Bilaspur, Chhattisgarh
2. The New India Insurance Company Pvt. Ltd. Micro Branch Sirgitti, Vardhmaan Complex Road, Raipur Road, Parsada, District Bilaspur Chhattisgarh
3. Commissioner Under E. C. Act Cum Labour Court- Bilaspur, District Bilaspur, Chhattisgarh

---- Respondents

For Petitioner : Shri Anshuman Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

13/11/2018

The challenge in the present writ petition is to the order Annexure P-1 dated 27.02.2018 passed by the Labour Court, Bilaspur while exercising the powers under the Employees Compensation Act, 1923 in case no. 08/E.C. Act/Misc./2018.

2. The facts of the case are that the wife of the petitioner died in an accident while working with respondent no.1. The petitioner had filed a claim application before the Labour Court under the Employees

Compensation Act. In the National Lok Adalat that was held on 19.12.2017 the petitioner and respondent no.1 entered into a settlement and agreed for a sum of Rs.3,50,000/- as the total compensation payable. The said amount was deposited by respondent no.2 Insurance Company which had indemnified respondent no.1 before the Labour Court, Bilaspur.

3. The petitioner and his two children had moved an application before the Labour Court for releasing of the same. However, the Labour Court refused to grant the portion of the compensation to the children as they had already attained the age of majority and ordered for the entire amount of compensation to the present petitioner. However, vide the impugned order, the Labour Court has released an amount of Rs.1,50,000/- into the saving account of the petitioner whereas the balance of rupees 2 lakhs was ordered for depositing in FDR for 5 years. It is this part of the order which is under challenge.

4. According to the petitioner, the settlement that the petitioner had entered into before the National Lok Adalat was for the reason that he was dire need of money firstly for taking care of his medical needs as also for certain other incidental need that he was required for the maintenance/repairing of the residential house in which he was residing. He further submits that the Commissioner for Employees Compensation could not have passed an order of depositing a portion of compensation in a fixed deposit as it is not within his domain for passing such an order under the provisions of Section 8 of the Employees Compensation Act. According to the counsel for the petitioner, the depositing of compensation in a fixed deposit is always when the claimant is a woman or a person with legal disability. In the instant case, the petitioner is a male member and such an order for depositing substantial portion of the compensation is uncalled for and also is not in accordance with the provisions of the Act.

5. The issue involved in the present writ petition came up before this Court recently in WPL No. 213 of 2018 which was decided on 20.09.2018. In the said judgment, in paragraphs- 3 to 5 this Court has held as under:

> "3. At this juncture, it would be relevant to peruse the provisions of the Employees Compensation Act. So far as the compensation amount deposited by the employer is concerned, either voluntarily or by an order of the Commissioner, the said amount is an amount payable to the claimants, either legal heirs of the deceased worker or the injured worker himself. The decision of the Commissioner in making the investment of the compensation amount awarded is provided under Rule 10 of the Employees Compensation Rules, 1924. Plain reading of Rule 10 itself would reveal that the said provision of providing the discretion to the Commissioner in respect of the investment is in respect of money payable to the dependants of the deceased, which, in other words, by itself mean that in a case of non-fatal accident, the said sort of investment or discretion may not be there for the Commissioner. Moreover, the substantive provision of the Act, i.e., Section 8(6) of the Employees Compensation Act specifically further enumerates the fact that unless the person to whom the compensation is payable is a woman or a person under legal disability, the person to whom the money is payable is entitled for the same.
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> 4. The power which has been conferred upon the Commissioner to ensure the protection of the amount of compensation deposited by the employer/insurance company is in respect of only the fatal accident cases where the amount should be invested in such a manner that the dependants of the deceased can utilize the money for their betterment for a longer period. The said exercise may not be required when the amount is payable to the injured person himself.
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> 5. The injured person would be in a better position to understand the requirement of the money particularly for his treatment or any other incidental expenses that would be required for his sustenance and also for maintaining his family.

6. Given the aforesaid decision of this Court on a similar issue, this Court is of the opinion that the order passed by the Commissioner for Employees Compensation in the present case in the given facts is not sustainable and the same deserves to be and is accordingly quashed to the extent of the order of fixed deposit. It is accordingly ordered that the Commissioner, Employees Compensation may therefore release the entire amount to the petitioner forthwith into his savings account on an application being moved by the petitioner afresh.

7. The writ petition accordingly stands allowed.

Sd/-
(**P. Sam Koshy)**
JUDGE

Bhola