

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7337 of 2011

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Fulkumari Kunwar @ Fulkumari Devi, Wife Of Late Ram Pravesh Paswan
Resident Of Village- Amba, P.S.- Amba, Distt.- Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Jamuna Pandey, Son Of Late Deolal Pandey Resident Of Village-
Chilhaki, P.S.- Kurumba, Distt.- Aurangabad, Through The Owner Of Bolero
Jeep Bearing Registration No. Jh-03c-4348
3. The Branch Manager, Reliance General Insurance Company, Ranchi, J.D.
Corporate Office-3, 1st Floor, Church Complex, Mahavir Tower, Ranchi

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	None
For the State	:	Mr. Binod Kr. Yadav, SC 18

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 01-02-2019

No one appears for the petitioner. No one also appears
for the respondent nos. 2 & 3. Counsel for the State is present.

In the present case, the petitioner is challenging the
order dated 30.8.2010 contained in Memo No. 702 dated
31.8.2010 passed by the Deputy Labour Commissioner -cum-
Commissioner, Workmen's Compensation in CWC No. 38 of 2008
by which the claim of the petitioner has been rejected.

As it appears that the application was filed before the
Deputy Labour Commissioner for compensation by the petitioner
on account of death of her husband who was appointed by one
Jamuna Pandey and he died on 20.5.2008. Notices were given to
the respondents, both the opposite parties, Jamuna Pandey and the



Reliance General Insurance Company has objected the claim of the petitioner and finally the Deputy Labour Commissioner has rejected the application of the petitioner which is under challenge.

From the records, it appears that the claim made by the petitioner was disputed by the Insurance Company as well as Jamuna Pandey who is said to be the employer of the son of the petitioner who died in course of his employment while discharging the duty.

In view of the Notification of the Government notification bearing no. SO 1188 L&E, dated 31st December, 1991, the Presiding Officer of the Labour Court has been given authority to decide the cases of compensation in contested cases and the Dy. Labour Commissioner, ex-officio Commissioner has been given jurisdiction to decide the non-contested cases and, as such, the Deputy Labour Commissioner, who has exercised the power in contested case under the Workmen Compensation Act is without jurisdiction.

Accordingly, the order dated 30.8.2010 contained in Memo No. 702 dated 31.8.2010 is set aside with a direction to the Deputy Labour Commissioner to remit the entire records of the compensation case to the Labour Court, Dalmianagar for proper adjudication.



In the result, this writ application stand allowed to the extent indicated above.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.02.2019
Transmission Date	

