

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.780 of 2014

Arti Devi, wife of late Santosh Kumar Vishwakarma, resident of village Navgarn, P.S. Amas, Dist Gaya.

... .. Appellant/s

Versus

1. The ICICI Lombard General Insurance Company Ltd, through its Manager, Legal, 4th Floor, Eldeco Corporate Chamber-1, Vibhuti Khand, Gomti Nagar, Lucknow- 226024
2. Kiran Devi wife of Kamlesh Vishwakarma resident of village and P.O. Navgarh, P.S. Amas District Gaya.
..... Owner of Tempo No. BR 2Q/4377

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Shailendra Kumar
For the Respondent/s : Mr.Durgesh Kumar Singh

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 03-09-2019

Heard parties.

2. This miscellaneous appeal has been preferred against the order dated 10.10.2014 passed by the Dy. Labour Commissioner-cum-Commissioner, Workmen Compensation Act, Magadh Division, Gaya in CWC No. 29 of 2012 whereby Deputy Labour Commissioner has dismissed the claim case of appellant by the order as impugned in this appeal.

3. A co-ordinate Bench of this Hon'ble Court by order dated 01.10.2018 in M.A. No.777 of 2014 relying upon various judgments and orders passed by this Court has held that Deputy Labour Commissioner is not authorized to decide contested claim cases and is obliged to refer said contested case to the



labour court. The relevant paragraphs of said judgment is quoted below:-

“3. From perusal of the impugned order, it appears that both the opposite parties putting their appearance in the court below filed their written statements. Thus it appears to be a contested case. In the contested cases, only Labour Court of area concerned has got jurisdiction to entertain the dispute in view of the notification issued under Section 20 of the Workmen Compensation Act wherein the State has notified that in contested cases, Labour Court of the area concerned will have jurisdiction and Deputy Labour Commissioner is Commissioner for uncontested cases under Workmen Compensation Act and as such Deputy Labour Commissioner has no jurisdiction to pass an order in contested cases. Relevant para of the aforesaid notification is quoted as under:-

“In exercise of the powers conferred by sub-section (1) and (2) of Section 20 of the Workmen’s Compensation Act, 1923 (Act VIII of 1923) and in supersession of all previous notifications issued on the subject the Governor of Bihar is pleased to appoint the officers named in column 2 of Schedule hereto annexed to be ex-officio commissioners for Workmen’s Compensation within the local limits of their respective jurisdiction as specified in Column 4 of the said Schedule and to declare that:-

(a) The Presiding Officers of the Labour Court, as ex-officio Commissioners for Workmen’s Compensation shall deal with all contested cases arising under the said Act and the Rules framed thereunder;

(b) The officers other than the Presiding Officer of the Labour Courts as ex-officio Commissioners for workmen’s compensation shall deal with non-contested cases only arising under the said Act and the Rules framed thereunder;-

(c) All deposits of Workmen’s Compensation amount for disbursement in pursuance of Section 8 shall



be made with the Commissioner for Workmen's Compensation of the areas concerned other than the Presiding Officers of the Labour Court, as ex-officio Commissioner of Workmen's Compensation;

(d) All returns as required under sections 10A, 10B and 16 of the said Act shall be submitted to the respective Commissioners for the Workmen's Compensation other than the Presiding Officers of Labour Courts as ex-officio Commissioners for Workmen's Compensation; and

(e) All petitions for claim of Compensation shall be filed in the Court of the Commissioner for the Workmen's Compensation; for uncontested cases and in case this becomes contested, they will be transferred to the respective Presiding Officers of the Labour Courts, as ex-officio Commissioner for Workmen's Compensation for disposal."

4. In view of the aforesaid notification, Deputy Labour Commissioner has got no jurisdiction to adjudicate the contested cases under the Workmen Compensation Act rather Labour Court of the area has got jurisdiction over the same. Hence, the aforesaid order passed by the Deputy Labour Commissioner is illegal and beyond jurisdiction. Accordingly, aforesaid order is set aside and the case is remitted back with direction to the Deputy Labour Commissioner, Magadh Division, Gaya to refer the case to the Labour Court of the area concerned within fortnight from the date of receipt/production of a copy of this order and on receipt of the same, Labour Court of the area concerned is to dispose it of within six months from the date of receipt of the record.

4. Accordingly, this miscellaneous appeal is allowed and the order dated 10.10.2014 passed by the Dy. Labour Commissioner-cum-Commissioner, Workmen Compensation



Act, Magadh Division, Gaya in CWC No. 29 of 2012 is set aside. The matter is remitted back with direction to the Deputy Labour Commissioner, Magadh Division, Gaya to refer the case to the Labour Court of the area concerned within fortnight from the date of receipt/production of a copy of this order and on receipt of the same, Labour Court of the area concerned is to dispose it of within six months from the date of receipt of the record.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.12.2019
Transmission Date	NA

