

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.754 of 2014

1. Divisional Railway Manager, Eastern Rly. Mughalsarai and Ors.
2. Senior Divisional Personnel Officer, Eastern Rly. Mughalsarai.
3. Chief Personnel Officer, Eastern Rly. Calcutta.
4. Divisional Account Officer, Eastern Railway, Mughalsarai.

... .. Appellant/s

Versus

Most Bigni Devi W/o Late Jhagru R/O Villlage- Samhuta, P.O.- Kirhindhi,
P.S.- Shivsagar, Distt- Rohtas.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sunil Kumar Ravi
For the Respondent/s : Mr.Deepak Kumar

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 12-07-2019

Heard learned counsel for the parties.

This miscellaneous appeal has been filed for setting aside the judgment and order dated 29.04.2014 passed in W.C Case No. 2 of 2007/ CWC No. 20 of 1998, passed by Presiding Officer, Labour Court, Dalmianagar, to pay compensation of Rs. 1,35,502/- to the applicant-respondent with interest @ 6 per cent per annum from the date of Order.

Applicant-respondent filed an application for grant of compensation on account of death of her husband while on duty under Divisional Railway Manager, Eastern



Railways, Mugalsarai. The husband of Claimant Late Jhagru was employed as Gangman in Dehri-on-sone Unit No. 5 and was in regular service and his monthly salary was Rs. 2,000/- and he died while on duty at Gate No. 45/C due to fatal accident by Dakshin Down Train and his dead body was identified by Gateman Amash and Gangman Dashrath.

FIR was lodged on 11.10.1993 by ASI Saroj Prasad O/C Rail Out Post Dehri giving rise to Case No. 42 of 1993 dated 11.10.1993. Late Jhagru was aged 45 years and was a regular monthly salaried Gangman and died in course of duty and service to employer and as such applicant who is widow of deceased employee claimed compensation under the W.C. Act, 1923.

In reply opposite party-appellants accepted that deceased was working as a Gangman and he started for his duty at 19 hrs on 09.10.1993 and his duty was at Gate No. 45/C and his duty was to start at 00:00 hrs to 8:00 hrs but he started 5:00 hrs earlier and while going he was knocked down by a running train and got injured. He was brought to the Govt. Hospital by 2382 Down for treatment and after



giving first aid he was referred to Mugalsarai Hospital for better treatment but as soon as he was brought in emergency ward he was declared dead by Doctor on emergency duty.

It was argued on behalf of appellant that accident did not take place at his workplace but while on his way he was knocked down by the Train which establishes his negligent and careless act and he was moving on foot by the side of Railway Track which is also violation of safety Rules, as such the applicant is not entitled for any compensation under the W.C Act.

On the pleadings of the parties, the Labour Court framed four issues for adjudication.

In support of her application, Applicant was examined as A.W. 1 and apart from her Jawahir Singh and Ganesh were examined as A.W-2 and A.W-3, who were the material witnesses and apart from oral evidence two documentary evidence were also produced by the Applicant which were marked as Exhibits by the Labour Court. Exhibit-1 is the post mortem report and Exhibit-2 is the inquest report of late Jhagru.

On behalf of opposite party, one witness Shailendra



Kumar OPW-1 was examined.

No documentary evidence was produced on behalf of opposite party.

The Labour Court held that late Jhagru was a permanent employee and was posted as Gangman and was getting regular salary, who met with an accident on 03.10.1993 and died on 10.10.1993. The court has further held that deceased was Gangman whose employment takes place on rail track, continues on rail track and ends on rail track and he is always surrounded with danger with meeting an accident and concluded that deceased employee Jhagru died in course of an arising out of an employment as such Applicant is entitled for compensation.

The age of deceased Gangman was 45 years and his salary was Rs. 2000/- and court has calculated the amount of compensation as Rs. 1,35,552/- and directed to pay said compensation within three months with interest @ 6 per cent per annum from the date of order.

After hearing the learned counsel for the parties, this Court does not find any illegality or irregularity in the order passed by the Presiding Officer, Labour Court,



Dalmianagar.

Accordingly, this miscellaneous appeal stands dismissed.

LCR of this case be returned to the court concerned forthwith.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.10.2019
Transmission Date	NA

