

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
M. A. (C) No. 961 of 2014

1. Krishna Kumar Sonwani S/o Late Ferharam Aged About 32 Years
Caste Satnami
2. Narendra Kumar S/o Krishna Kumar Sonwani Aged About 10 Years
Caste Satnami
3. Kumari Nandini D/o Krishna Kumar Sonwani Aged About 8 Years
Caste Satnami

Appellants No. 2 and 3 are minor through Natural Guardian Appellant No. 1 All are R/o Village Kukera Satnamipara, Post Office Manhora, Police Station Dharsiwa, Tahsil Civil and Revenue District Raipur C.G.

---- Appellants

Versus

L & T Construction Power Transmission and Distribution, F-11, Shivaji Park, Saddu, Raipur, Civil and Revenue District Raipur C.G.

---- Respondent

For Appellants	: Mr. Malay Kumar Bhaduri, Advocate
For Respondent	: None

Hon'ble Shri Justice Parth Prateem Sahu
Judgment On Board

16/05/2019

1. This appeal has been filed by the appellants/claimants under the provisions of Section 30 of the Employees Compensation Act, 1923 (hereinafter referred to as "Act of 1923") (prior to 18/01/2010 known as Workmen's Compensation Act) against the impugned order dated 07/07/2014 passed by Commissioner for Employees' Compensation -cum-Labour Court No.2, Raipur, C.G (hereinafter referred to as

'Commissioner') in Case No.17/WC Act/2013/Fatal, whereby claim application filed under Section 22 of Act of 1923 was dismissed.

2. Brief facts for disposal of this appeal are that on 24/04/2013, Rambai Sonwani who was working with respondent, suffered accidental injuries during course of her employment and was succumbed to those injuries on 16/05/2013. Employer published a notice calling claim of dependants of deceased vide notice dated 25/06/2013, but no objection or claim has been received by employer and subsequently, employer deposited the amount of compensation with Commissioner as per their own calculation. Appellants who were claiming to be dependants of deceased Rambai Sonwani subsequently filed an application before the Commissioner under the provisions of Act of 1923 for disbursement of amount of compensation deposited by employer of Rambai Sonwani.
3. The Commissioner on considering the application filed by appellants/claimants for disbursement of amount of compensation and relationship shown with deceased, held that they do not come within the purview of word 'dependant' as defined under Section 2(1)(d) of Act of 1923, therefore, dismissed their application for disbursement of amount of compensation and directed for return of amount so deposited by employer towards compensation.
4. Learned counsel appearing for appellants/claimants submits that appellant No.1 is real brother of deceased and appellants No. 2 & 3 are nephew of deceased, therefore, as per Hindu Succession Act,

they are legal representatives of deceased and entitled for amount of compensation so deposited by employer towards accidental death of Rambai Sonwani during course of employment.

5. No one appeared on behalf of respondent even after substituted service.
6. I have heard learned counsel appearing for appellants and perused entire record carefully.
7. Appellant No.1 examined himself as witness before Commissioner wherein he has specifically stated that deceased was his sister, her marriage took place with Mangal Das who was pre-deceased and both of them died issueless. He further stated that at the time of accident, Rambai Sonwani was residing with him.
8. Section 4 of the Act of 1923 deals with the amount of compensation in case of death or bodily injury of workman. Sub-section (4) of Section 4 of the Act of 1923 for payment of the amount of compensation to eldest surviving dependant of workman for granting additional amount of Rs.2500/- in addition to the amount of compensation.
9. Definition of word 'dependant' has been provided under the Act of 1923 in Section 2(1)(d), which reads as under :-

“2.Definitions.-(1) in this Act, unless there is anything repugnant in the subject or context, -

X X X

(d) " dependant" means any of the following relatives of deceased [employee], namely:--

(i) a widow, a minor [legitimate or adopted] son, and unmarried [legitimate or adopted] daughter, or a widowed mother; and

(ii) if wholly dependent on the earnings of the [employee] at the time of his death, a son or a daughter who has attained the age of 18 years and who is infirm;

(iii) if wholly or in part dependent on the earnings of the [employee] at the time of his death,-

(a) a widower,

(b) a parent other than a widowed mother,

(c) a minor illegitimate son, an unmarried illegitimate daughter or a daughter [legitimate or illegitimate or adopted] if married and a minor or if widowed and a minor,

(d) a minor brother or an unmarried sister or a widowed sister if a minor,

(e) a widowed daughter- in- law,

(f) a minor child of a pre-deceased son,

(g) a minor child of a pre-deceased daughter where no parent of the child is alive, or

(h) a paternal grandparent if no parent of the [employee] is alive;]

[*Explanation.*-For the purposes of sub-clause (ii) and items (f) and (g) of sub-clause (iii),

references to a son, daughter or child include an adopted son, daughter or child respectively.]”

10. From perusal of definition of word 'dependant' as provided under the Act of 1923, it nowhere mentions that the brother or sister of deceased to be dependant, but specifically mentions that the widow, children, legitimate, illegitimate or adopted, parents, widow daughter-in-law, minor child of pre-deceased. The definition also reveals that the legislature has included close relationship who could be dependant in any manner on the deceased employee, but has not included brother or his children.
11. The Act of 1923 is a special Act for providing compensation to dependant of deceased employee, therefore, the definition provided with respect to 'dependant' in any other Act or Law, cannot be taken into consideration to extend the scope of word 'dependant' when legislature has cautiously included those relatives for the word 'dependant' under Act of 1923.
12. In view of above, I do not find any illegality in the impugned order passed by Commissioner. The appeal does not involve any question of law much less substantial question of law to be decided by this Court.
13. In the result, the appeal being devoid of any substance, is liable to be and is hereby dismissed.

Sd/-

(Parth Prateem Sahu)
Judge