

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 359 of 2019

- General Manager N.M.D.C. Limited Bailadila, Iron Ore Mines, Kirandul, P.O. Kirandul, Tahsil Kuakonda, Distt. Dantewada (CG)

---- Appellant

Versus

1. Somari Baghel W/o Late Stanam Baghel Aged About 36 Years
2. Ku. Gayatri Baghel D/o Late Satnam Baghel Aged About 18 Years
3. Ku. Yamuna Baghel D/o Late Satnam Baghel Aged About 15 Years
4. Durga Prasad Baghel S/o Late Satnam Baghel Aged About 12 Years
5. Ku. Yogeshwari Baghel D/o Late Satnam Baghel Aged About 8 Years

Respondents No, 3, 4 & 5 Minor, Legal Heir mother Smt. Somari Baghel.

All R/o Vora Camp Ward No.5, Kirandul, Tahsil-Kuakonda, Distt. Dantewada (CG)

6. J.J. Construction Through Its Proprietor Joy Office Of Joy Niwas, Millennium Colony, CSEB Road Kirandul Post Office Kirandul Tahsil Kuakonda, District Dantewada Chhattisgarh.

---- Respondents

For Appellant	:	Shri Vaibhav Shukla, Advocate.
For Respondents	:	None.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

15/02/2019

Heard on admission.

02. This appeal is by the non-applicant No.2/principal employer, under Section 30 of the Employees' Compensation Act, against the judgment 28.11.2018 passed by Commissioner, Employees' Compensation Act, Labour Court, Jagdalpur (CG), in Case No.09/2015/EC Act/Fatal awarding compensation of Rs.5,26,726/- in favour of the employee/claimant with interest @ 12% per annum thereon, fastening liability to the extent of 50-50% on the non-applicants i.e. the appellant herein and respondent No.6.

03. Brief facts of the case are that on the date of accident i.e. 21.8.2014 deceased Satnam, aged about 40 years, a contract labour, was under the employment of non-applicant No.1 JJ Constructions and the principal employer is non-applicant No.2 i.e. NMDC Ltd (appellant herein). While working in the loading plant, Satnam slipped and sustained injuries on head and other parts of his body. However, while he was being taken to hospital for treatment, he died on the way.

04. On claim petition under Section 22 of the Employees' Compensation Act being filed by the claimants, the Commissioner considering the pleadings and the evidence of the parties, by the impugned judgment granted compensation in favour of the claimants as mentioned above.

05. Learned counsel for the appellant submits that as per contract Ex.D/1 between non-applicant No.1 and non-applicant No.2 (appellant), insurance was required for the workmen and premium was to be paid by non-applicant No.1 for such workmen. However, non-applicant No.1 did not obtain any insurance policy for the workmen and therefore, the appellant is not liable to pay compensation to the claimant as awarded by the Commissioner on account of breach of contract by non-applicant No.1. He further submits that the accident did not arise during the course of employment and the death of the deceased has no nexus with his employment.

06. Heard learned counsel for the appellant and perused the impugned judgment.

07. As per Section 12 of the Employees' Compensation Act, the

principal employer having contract with any other person for the execution of any work, which is ordinarily part of the trade or business of the principal, cannot escape from its liability to pay compensation. If there is any dispute between the contractor and the principal employer as to breach of contract, the principal employer has right to approach the appropriate forum for redressal of the same. In this case, as per pleadings of the respective parties and the evidence adduced by them, as has been observed by the Commissioner, it stands proved that the deceased was under the employment of the contractor/non-applicant No.1 on the date of accident and the appellant/non-applicant No.2 is the principal employer. Further, the death of the deceased also occurred due to injuries suffered by him in an accident arising out of and during the course of such employment.

08. In view of above, no substantial question of law is involved in this appeal for adjudication and therefore, the appeal being without any substance is liable to be dismissed at the admission stage itself. It is, accordingly, dismissed.

As per impugned judgment, the appellant/non-applicant No.2 was to pay Rs.2,63,363/- along with interest @ 12% per annum from the date of accident till deposit of the same in case of non-payment of said amount within 45 days from the judgment. If the appellant has paid any amount to the claimant in excess to its above liability, then it shall be entitled to recover the same from respondent No.6/non-applicant No.1 in accordance with law.

Sd/

(Gautam Chourdiya)
Judge