

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Miscellaneous Appeal (C) No.229 of 2020**

The Oriental Insurance Company Limited, Branch Office, G.E. Road, Old R.T.O. Bhawan, Durg, District Durg Chhattisgarh (Insurer of Offending Vehicle Bus Bearing No. C.G. 07 E 0471) (Non-Applicant No.2).

---- Appellant**Versus**

1. Smt. Nandini Yadav, Wd/o Late Vishwanath Yadav, Aged About 50 Years, (wife of Deceased and legal heirs) Resident of Nawapara, Goura Choura, Durg, District Durg, Chhattisgarh (Claimant).
2. Satish Yadav, S/o Late Vishwanath Yadav, Aged About 25 Years, (son of Deceased and legal heirs) Resident of Nawapara, Goura Choura, Durg, District Durg, Chhattisgarh (Claimant).
3. Trilok Yadav, S/o Late Vishwanath Yadav, Aged About 23 Years, (Son Of Deceased And Legal Heirs), (son of Deceased and legal heirs) Resident of Nawapara, Goura Choura, Durg, District Durg, Chhattisgarh (Claimant).
4. Durg Roadways, G.E. Road Durg, Through Director Nemichand Nahar, Managing Director, Durg Roadways, Durg, District Durg Chhattisgarh (Non-Applicant No.1).

---- Respondents

For Appellant : Shri Pankaj Agrawal, Advocate.

Hon'ble Shri Justice Sanjay S. Agrawal**Order On Board**

20.02.2020

1. Heard on admission.
2. This Miscellaneous Appeal has been preferred by the Non-Applicant No.2/The Oriental Insurance Company Limited under Section 30 of the Employee's Compensation Act, 1923 (hereinafter referred to as 'the Act of 1923') questioning the legality and propriety of the award dated 24.10.2019 passed by the learned Commissioner for Employee's Compensation-cum-Labour Court, Durg, District Durg (C.G.) in Case No.104/W.C. Act/2014 Fatal. The parties to this appeal shall be referred hereinafter as per their description in the Court below.
3. Learned counsel for the Appellant submits that while passing the award impugned, the Commissioner for Employee's Compensation has committed an illegality in holding that Deceased, Vishwanath Yadav, expired during the course of and arising out of his employment. It is contented further that the evidence of one Yogesh Yadav, who was examined as Applicant Witness No.2 (AW-2), is not a reliable witness as he already left the job of deceased's employer in 2010 and, therefore, it cannot be held that he was present at the time of occurrence of the said incident.
4. From perusal of the record, it appears that the deceased Vishwanath Yadav, a 36 years old, was a driver by profession and was working as such under the employment of Non-Applicant No.1 at the monthly salary of Rs.8,000/-. It appears further that on a fateful day, i.e., 07.08.2013, he (Vishwanath

Yadav) was parking the vehicle in question, i.e., 'Bus', bearing Registration No.CG-07-E-0471 at the garage of his employer and got injured badly due to applying of sudden break of the alleged vehicle and as a result of which, he expired. The said fact is duly corroborated by the statement of one Yogesh Yadav (A.W.2), who has deposed very specifically that due to occurrence of sudden break, the steering of the alleged vehicle struck on his head and chest, owing to which, he expired. The evidence of this witness could not have been rebutted in his cross-examination.

5. Considering the facts and circumstances of the case, it is apparent that deceased Vishwanath Yadav expired during the course of and arising out of his employment on 07.08.2013, when he was parking the vehicle in question in the employer's garage.
6. Consequently, I do not find any question of law, much less the substantial questions of law which arise for determination in this appeal. Accordingly, the appeal is dismissed at the admission stage itself. No order as to costs.

Sd/-

(Sanjay S. Agrawal)
Judge