

NAFR

HIGH COURT OF CHHATTISGARH BILASPUR**M. A. (C) No. 1197 of 2014**

1. Smt. Nisha Devi Wd/o Late Kripa Shankar, aged about 23 years,
 2. Kartik (Minor) S/o Late Kripa Shankar, aged about 3 years, through his natural guardian mother namely Smt. Nisha Devi Wd/o Late Kripa Shankar.
 3. Gayadeen S/o Lakshman, aged about 63 years,
 4. Smt. Savitri Devi W/o Gayadeen, aged about 60 years,
- All are R/o Village Bheergadhva, Post Office Manikpur, Police Station Manikpur, Tahsil Kunda, Civil and Revenue District Pratapgarh (U.P.).

---- Appellants**Versus**

Indoor Private Limited through Mr. Aniruddha Prasad Dubey, aged about 45 years, C/o Vandana Vidyut Limited, Village Salora (Chhuri), Post Darrabhatha, Tahsil Katghora, Civil and Revenue District Korba (C.G.)

---- Respondent

For Appellants : Shri Dharmesh Shrivastava, Advocate.
For Respondent : None.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board**Per Parth Prateem Sahu, Judge****04.09.2020**

1. This is claimants' appeal under Section 30 of the Employee's Compensation Act, 1923 (hereinafter referred to as 'E.C. Act') challenging the order dated 22.09.2014 passed by the Commissioner for Employees Compensation-cum-Labour Court, Korba, Chhattisgarh (hereinafter referred to as 'Commissioner') in Case No.03/EC Act/2014 Misc, whereby

the learned Commissioner dismissed the application filed by the appellants/claimants under Section 4A(3)(b) of the E.C. Act.

2. Facts relevant for disposal of this appeal, are that, husband of appellant No.1 was working as helper with the respondent-establishment. On 14.08.2012, while Late Kripa Shankar was under employment and attending the crane machine, he suffered grievous injuries. Immediately, he was admitted to NTPC Hospital for treatment, from where, he was referred to Apollo Hospital, Bilaspur. Late Kripa Shankar took treatment for about one month in Apollo Hospital, Bilaspur and thereafter, he was taken to Allahabad (Uttar Pradesh). While taking treatment on his village, he died on 18.03.2013. The appellants have intimated the death of employee i.e. Late Kripa Shankar to the respondent-employer, but even after getting the information and knowledge of death, no steps for payment of compensation were taken by the respondent-employer for about 2-3 months. A complaint was made before the Deputy Director on 31.07.2013 and only thereafter, an amount of Rs.4,97,019/- was deposited on 16.09.2013 as compensation. After receiving the amount of compensation deposited by the respondent-employer, appellants have filed an application under Section 4A(3)(b) of the E.C. Act for

award of penalty of 50% of the calculated amount of compensation.

3. The said application was replied by the respondent-employer mentioning therein that without giving an information, injured was taken to his village near Allahabad, where he died on 18.03.2013. The claimants have not informed the death of Late Kripa Shankar in writing or orally. The respondent-employer received the death certificate of employee-Late Kripa Shankar only on 05.09.2013, thereafter, the amount of compensation was deposited with no delay on the part of the respondent-employer.
4. Upon appreciation of pleadings made in the claim application and also considering the evidence/statement placed on record by the respective parties, learned Commissioner has dismissed the application by the impugned order mentioning therein that claimants have not made any allegation that even after giving an information about the death of Late Kripa Shankar (employee), employer has not deposited the amount of compensation. The claimants have failed to produce any material on record with regard to date of information of death of employee to support their pleading that the payment was delayed by the employer. Commissioner noted the submission of the employer that they got death certificate only on 05.09.2013 and

immediately thereafter, on 16.09.2013, amount of compensation was deposited and dismissed the application.

5. Shri Dharmesh Shrivastava, learned counsel for the appellants/claimants submits that date of accident was not in dispute and date of payment of compensation/deposit of compensation is also not in dispute. He submits that there is delay in depositing of amount of compensation, therefore, under the provisions of law, claimants are entitled for payment of penalty under Section 4A(3)(b) of the E.C. Act.
6. We have heard the learned counsel for the appellants/claimants and perused the records carefully.
7. Respondent-employer has denied the pleadings made in the application and very specifically pleaded about the date of knowledge of death. Receiving of death certificate only on 05.09.2013 and depositing the amount immediately on 16.09.2013. Respondent-employer has examined one Aniruddha Prasad Dubey, Commercial Officer as witness, who in his evidence very categorically stated that they got information about the death of Late Kripa Shankar (employee) only on 05.09.2013 when the brother of deceased produced the death certificate before them and asked for compensation, immediately thereafter, amount of compensation was deposited on 16.09.2013.

8. Perusal of the provisions under which the application is made i.e. Section 4A(3)(b) of the E.C. Act would show that the Act envisages the jurisdiction upon the Commissioner to award penalty not exceeding 50% of the amount of compensation only if, in his opinion, there is no justification for the delay. In the instant case, while dismissing the application, learned Commissioner has recorded that the claimants have failed to prove the delay on the part of respondent-employer for depositing the amount of compensation.
9. An appeal against the award/order of Commissioner/under E. C. Act will not lie unless a substantial question of law is involved. From perusal of the pleadings in application as well as memo of appeal, submission of learned counsel for the appellants/claimants as also the order impugned, we are of the firm view that the impugned order has been passed on appreciation of the facts and no question of law much less any substantial question of law is involved in this appeal for consideration and to be decided.
10. The appeal is dismissed accordingly being devoid of any merit.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge