

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

FIRST APPEAL NO.59 OF 2020

[Hemraj Manikrao Khobragade **..Vrs..** Sarla Wd/o Mohan Dhole and Ors.]

WITH

CIVIL APPLICATION (F) NO.1509 OF 2019

IN

FIRST APPEAL (ST) NO.20344 OF 2018

[Hemraj Manikrao Khobragade **..Vrs..** Manisha Wd/o. Dnyaneshwar Bhoyar and Ors.]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri. A. R. Patil, Advocate for Applicant/Appellant

Shri. S. W. Sambre, Advocate for the Respondent Nos.1 and 2

Shri. S. V. Purohit, Advocate for the Respondent Nos.3 and 4 and in CAF No.1509 of 2019 in FAST No.20344 of 2018 for the Respondent Nos.6 and 7.

CORAM : M. S. SONAK, J.

DATE : 7th DECEMBER, 2021.

Heard the learned Counsel Shri. A. R. Patil for Appellant, the learned Counsel Shri. S. W. Sambre for the Respondent Nos.1 and 2 and the learned Counsel Shri. S. V. Purohit for Respondent Nos.3 and 4.

2. This is an Appeal under Section 30 of the Workmen's Compensation Act, 1923 (for short, "the said Act").

3. The first proviso to Section 30(1) makes it clear that no Appeal shall lie against any order unless substantial question of law is involved in the Appeal.

4. In this case, the Appellant has framed not less than nine questions, which have been styled as substantial questions of law. From perusal of the same,

it is quite evident that most of them are neither questions of law nor in any case, they can be described as substantial.

5. The learned Counsel Shri. A. R. Patil for Appellant further submitted that he was pressing the first substantial question of law as framed, which reads as follows :

1. “Whether the learned Commissioner of Compensation/Labour Court, Wardha has rightly construed the terms and conditions of the agreement of execution of contract in its proper perspective and whether it has rightly awarded the compensation ?”

6. Shri. Patil, the learned Counsel submits that in this case, the Appellant was a petty electrical contractor and the Principal Employers were the Respondent Nos.3 and 4. He submits that in terms of the agreement executed between the Appellant and the Respondent Nos.3 and 4, the entire liability will never have been foisted upon the Appellant. He submits that this is a substantial question of law, which is involved in the present Appeal and therefore, the present Appeal may be admitted.

7. The learned Counsel Shri. S. W. Sambre for Respondent Nos.1 and 2 i.e. the Claimants, who were the dependents of workmen who died due to electrocution in an accident and in course of his employment on 30/08/2016. He submits that such substantial question of law does not arise at all, particularly because the present Appellant despite three notices, failed to even remain present before the

Workmen's Compensation Commissioner. Shri. Sambre, the learned Counsel further submits that in any case, this is not a matter which should concern the dependents of the victims and at the highest, this is a matter between the Appellant and the Respondent Nos.3 and 4.

8. Since, in this case, the defence which is now sought to be raised was not even taken up before the Workmen's Compensation Commissioner, I am inclined to agree with the submissions of Shri. Sambre, the learned Counsel that the substantial question of law now proposed is not even involved in this Appeal. In any case, this is really not a matter which would concern the dependents of the workmen, who died in an accident in the course of his employment. Based on such a ground, there is no question of admitting this Appeal and delay in the right of such dependents to receive the compensation as has been determined in this matter.

9. In case, the Appellant has any remedies against the Principal Employer, the Appellant, is free to pursue the same in accordance with law. However, there is no case made out to entertain the present Appeal. Particularly, the questions now proposed and neither to be said involved in the matter nor it can be described as a substantial question of law.

10. This Appeal is therefore **dismissed** with liberty as aforesaid.

11. There should be no order for costs.

12. The amount awarded by the Commissioner has been deposited by the Appellant. Part of the same is

withdrawn. The claimants shall be entitled to withdraw the balance amount.

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13. Delay in instituting this Appeal is condoned.

14. The civil application is disposed of.

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15. The Appeal is taken up for consideration forthwith at the request of the learned Counsel for the parties.

16. The learned Counsel for the parties agree that issue involved in this Appeal is identical to the issue involved in First Appeal No.59 of 2020, which I have just today disposed of. Therefore, for the reasons set out in the order disposing of First Appeal No.59 of 2020 even this appeal is disposed of.

17. The Appeal is dismissed but with liberty to the Appellant to seek remedies, if any, as against the Principal Employer and Insurance Company.

18. The Amounts deposited before the Commissioner can now be withdrawn by the claimants in their entirety.

JUDGE

TAMBE

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