

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.201 of 2017

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M/s Balajee Infratech and Constructions Pvt. Ltd. through its Managing Director, 401-406, Samruddhi Commercial Complex Chincholi Bunder Road Extn., Malad (West), Mumbai - 400064

... .. Appellant/s

Versus

1. Most. Pramila Devi W/o Late Ranjeet Yadav
2. Nitish Kumar minor S/o Late Ranjeet Yadav
3. Nikhit Kumar minor S/o Late Ranjeet Yadav
4. Yadunandan Yadav S/o Late Doman Yadav
5. Malti Devi W/o Sri Yadunandan Yadav
serial No. 2 and 3 are minor sons of Late Ranjeet Yadav under the guardianship of their mother Pramila Devi
All are residents of Village - Bhaluachak, P.S. - Madanpur, District - Aurangabad, Bihar.
6. The Oriental Insurance Company Ltd. Mumbai
(Master Policy No. 530000/48/2017/30 period 01.04.2016 to 31.03.2017)

... .. Respondent/s

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Appearance :

For the Appellant/s	:	M/s Mukesh Prasad Singh Sarita Bajaj, Advocates
For the Respondent no. 6:		Mr. Durgesh Prasad Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

9 11-08-2022 Heard learned counsel for the appellant and learned counsel for the Oriental Insurance Company Limited.

The instant appeal has been preferred under section 30(1)(d) of the Workmen's Compensation Act, 1923 against the order dated 11.1.2017 passed in CWC Case no. 32 of 2016 by the Deputy Labour Commissioner-cum-Commissioner Workmen Compensation, Magadh Division, Gaya.

At the outset, referring to and relying upon the order



of this Court dated 3.8.2015 passed in M.A. no. 849 of 2012 (Divisional Manager, United India Insurance Company Limited and another vs. Most. Rina Devi and another), learned counsel for the respondent Insurance Company submits that as held in the said case, in view of the notification issued under section 20 of the Workmen's Compensation Act notified by the State, the matter in the issue being contested in the instant case could not have been decided by the Deputy Labour Commissioner but it was only the Labour Court of the area which had jurisdiction to decide the case.

Reliance is placed on relevant part of the notification issued under section 20 of the Workmen's Compensation Act which is quoted in the order dated 3.8.2015 and relevant part of which is being quoted here in below for ready reference:-

“In exercise of the powers conferred by sub-section (1) and (2) of Section 20 of the Workmen's Compensation Act, 1923 (Act VIII of 1923) and in supersession of all previous notifications issued on the subject the Governor of Bihar is pleased to appoint the officers named in column 2 of Schedule hereto annexed to be ex-officio commissioners for



Workmen's Compensation within the local limits of their respective jurisdiction as specified in Column 4 of the said Schedule and to declare that:-

(a) The Presiding Officers of the Labour Court, as ex-officio Commissioners for Workmen's Compensation shall deal with all contested cases arising under the said Act and the Rules framed thereunder;

(b) The officers other than the Presiding Officer of the Labour Courts as ex-officio Commissioners for workmen's compensation shall deal with non-contested cases only arising under the said Act and the Rules framed thereunder;- ”

Learned counsel appearing for the appellant makes submissions on merits of his case.

Having heard learned counsel for the parties and having perused the materials on record, from the contents of the written statement filed on behalf of the opposite party in the court of the learned Deputy Labour Commissioner-cum-Commissioner Workmen Compensation in CWC Case no. 32 of



2016, bereft of unnecessary details it may be stated that the statement made in paragraph nos. 14 and 15 of the said written statement is to the effect that the applicants are not entitled to any reliefs much less the reliefs sought and the Hon'ble Authority be pleased to dismiss the application with cost.

In view of the contents of the written statement there remains no doubt that the matter was seriously contested by the opposite parties and thus in view of the notification issued under section 20 of the Workmen's Compensation Act, together with the ratio of the above mentioned order dated 3.8.2015 of this Court, the Deputy Labour Commissioner, Gaya had no jurisdiction to adjudicate the dispute which was contested between the parties.

Thus in view of the facts and circumstances stated herein above the order impugned dated 11.1.2017 passed by the Deputy Labour Commissioner-cum-Commissioner Workmen Compensation, Magadh Division, Gaya in CWC Case no. 32 of 2016 is set aside.

The Deputy Labour Commissioner, Gaya is directed to transfer the records of the case to the Labour Court, Gaya within a period of two weeks from the communication of this order and on receipt of the same the Labour Court, Gaya, after



giving due notice to the parties shall proceed to decide the case
within six months from the date of receipt of the records.

The appeal stands disposed of.

(Partha Sarthy, J)

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