

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 864 OF 2018

SANTOSH KIRTIKUMAR HATTE
VERSUS
VIJAY BALAJI KAWADE AND OTHERS

...
Advocate for Appellant : Mr. S.K. Hatte
Advocate for Respondent No.3 : Mr. P.B. Paithankar
Advocate for Respondent Nos.1A to 1E : Mr. S.B. Madde
....

CORAM : S.G. DIGE, J.
DATE : 23rd August, 2022

ORDER :

. Heard learned Counsel for appellant and learned Counsel for respondents.

2. Learned Counsel for appellant submits that, the Commissioner for Employees Compensation and Judge, Labour Court, Latur (for short 'the Trial Court') has passed the award directing the appellant and respondent No.2 to pay compensation of Rs.9,67,968/- to respondent No. 1-A to 1-D. The appellant did not get opportunity to produce evidence before the Trial Court. As the compensation

awarded against appellant, the appellant should get opportunity to lead the evidence to prove his side. Appellant is not entitle to pay any compensation. Hence, requested to allow the appeal.

3. Learned Counsel for respondents submits that, notice of the Claim Petition was served on appellant. After service of notice, appellant failed to appear before the Trial Court hence, matter proceeded *ex-parte*.

4. It is the case of present respondents that, deceased was the employee of appellant and respondent No.2 in original Claim Petition and deceased died during the course of employment hence respondents - original claimants are entitle for compensation and accordingly considering the evidence, the Trial Court has passed the order which is legal and valid.

5. I have heard all learned Counsel.

6. Admittedly appellant did not get opportunity to put his side before the Trial Court. The compensation is

awarded against the appellant. Though the appellant was served with the notice but he failed to appear. If costs are imposed on the appellant, it would meet the ends of justice. Considering the principles of natural justice, appellant should get opportunity to put his side. Hence, I pass the following order :-

ORDER

- (a) Appeal is partly allowed.
- (b) The order passed by the Trial Court is quashed and set aside.
- (c) Matter is remanded back to the Commissioner for Employees Compensation and Judge, Labour Court, Latur, with direction to decide the same afresh by giving opportunity to both the parties to put their side, if they so desire.
- (d) Matter is of the year 2018 hence, the Trial Court is requested to dispose of the same as early as possible however, within three (03) months from the receipt of order of this Court.
- (e) Appellant is directed to pay cost of Rs.10,000/-

(rupees ten thousands only) to respondent Nos.1-A to 1-E.

- (f) Amount of costs be deposited before the Trial Court. Respondents herein (original claimants) are entitled to withdraw the amount deposited by appellant.
- (g) In view of the appeal, pending Civil Applications are disposed of.
- (h) Record and proceedings be sent back to the Commissioner for Employees Compensation and Judge, Labour Court, Latur.

[S.G. DIGE, J.]