

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO.796 OF 2004

- 1] The Manager,
Cotton Federation,
Hatta, Tq. Basmat,
Dist : Parbhani.
- 2] The Zonal Manager,
Cotton Federation,
P.D.C.C.Bank Ltd.
Parbhani.

.. APPELLANTS

VERSUS

- 1] Balasaheb Kishanrao Garad,
Age : Major, Occup : Labour,
R/o. Hatta, Tq. Basmat,
Dist. Parbhani.
- 2] The Chairman,
Krishi Utpanna Bajar Samiti,
Jawala Bajar, Tq.Aundha Nagnath,
Dist. Parbhani.

.. RESPONDENTS

...

Mr.S.T.Shelke, Advocate for the appellants.

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CORAM : S.G.DIGE, J.
DATE : 10.10.2022

ORAL JUDGMENT :

- 1] Challenge in this appeal is liability fixed on the
appellant to pay compensation.

Brief facts of the case are as under:

2] Respondent no.1 / original claimant [for short 'claimant'] was working as coolie with the appellant no.1 – original respondent no.2. Appellant no.2 is the higher authority of appellant no.1. Respondent no2 issued license to the claimant to work as coolie. On 24th April, 1998, claimant and other coolies were doing the work of arranging cotton bales in the warehouse at Hatta. One bale fell on the body of claimant and he sustained injury to his hip joint and a fracture to left hand. He filed claim petition for getting compensation before the Commissioner, Workmen Compensation Act and Civil Judge Senior Division, Parbhani [for short 'the Commissioner']. Considering the evidence, the Commissioner has directed the appellants herein to pay compensation to the claimant and also directed to take reimbursement of the said compensation from respondent no.2. Against the said judgment and order, this appeal.

3] It is the contention of the learned counsel for the appellants that claimant was not working with them as coolie. Respondent no.2 was procuring labours to the appellants. As such, the appellants are not employer of respondent no.1. The employment of labour was through respondent no.2. Therefore, liability of paying compensation is of respondent no.2. But this fact is not considered by the Commissioner, hence, requested to allow this appeal.

4] I have heard the learned counsel for the appellants. Though the respondents are served, none present for the said respondents. The issue involved in this appeal is whether the appellants are liable to pay compensation to claimant. Admittedly, accident is occurred when claimant was doing the work for the appellants. Though the appellants are denying that claimant was not employee of the appellants, in my view, the Tribunal has observed that respondent no.2 was immediate employer of

claimant whereas the appellants have status of principal employer and on that basis the compensation is awarded. I do not find any infirmity in it. The appellants can reimburse the compensation from respondent no.2 as directed by the Commissioner as the same is not challenged by respondent no.2.

5] In view of the above, I pass the following order:-

ORDER

- i] Appeal is dismissed.
- ii] No order as to costs.
- iii] Respondent no.1 / claimant is permitted to withdraw deposited amount by the appellants.

**[S.G.DIGE]
JUDGE**

DDC