



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

930 FIRST APPEAL NO. 4286 OF 2016

SMT LALITA RAJU CHAVAN AND OTHERS
VERSUS
VASANT DEVIDAS CHAVAN AND ANOTHER

...

Mr. Agrawal Pavankumar S., Advocate for Appellant
Mr. Rajendra Mohan Sharma, Advocate for Respondent No.1 -Absent
Mr. Bodade Shrikrishna R., Advocate for Respondent No.2.

CORAM : Y. G. KHOBRAGADE, J.
DATE : 7th May, 2024

ORDER:

1. Heard Mr. Agrawal, the learned counsel for the appellant and Mr. Bodade, the learned counsel for Respondent No.2. None present for respondent No.1.
2. Having regard to the submissions canvassed on behalf of both sides, I have gone through the record.
3. It is a matter of record that on 04.02.2014, the learned Commissioner for Employees' Compensation under Employees' Compensation Act passed the impugned judgment and order and dismissed the claim of the appellants/ claimants on ground that he has no jurisdiction as the accident is occurred within the jurisdiction of other court, so also the claimants failed to prove that they are residing within the jurisdiction of the Commissioner under the Employees' Compensation Act at Parbhani as well as on the count of delay.

4. In the case of (1) **Morgina Begum Vs. Managing Director, Hanuman Plantation Ltd.**, reported in AIR, 2008 SC 199 (2) **S.K. Saukat Ali Alias Sekho S.K. Vs. Commissioner for Workmen's Compensation**, 1999 (1) CLR 615 (3) 2013 (I) LLN 659, it has been held that under Section 21 of the Workmen Compensation Act, 1923, the claimant can apply before the Commissioner having jurisdiction over the area where the claimant ordinarily resides or before the Commissioner having jurisdiction over the area in which the accident taken place.

5. In the case in hand, though the learned Commissioner under the Employees' Compensation Act at Parbhabni recorded finding that deceased Raju Bandu Chavan, husband of claimant No.1, son of claimant No.6 and father of claimant Nos. 2 to 5 was working as driver at the relevant time and he succumbed to accidental injury, but the claim petition of the claimants dismissed on the ground of delay and jurisdictional point.

6. Since the accident did not take place within the jurisdiction of the Commissioner under the Employees' Compensation Act, Parbhani, as per provisions of Order 7 Rule 10 of the Civil Procedure Code, the proceeding could have been returned to the claimant for presentation before the competent Court having jurisdiction. However, in the present case, instead of returning the claim petition, it has been dismissed.

Therefore, the impugned judgment and order is hereby quashed and set aside. The Commissioner for Employees Compensation, Parbhani is hereby directed to return the proceeding to the claimants for presentation before the Commissioner for Employees Compensation, Akola in whose jurisdiction alleged accident occurred.

7. The matter is referred to the Commissioner for Employees' Compensation, Akola under whose jurisdiction the accident occurred.

8. First appeal is accordingly disposed off. No order as to costs.

(Y. G. KHOBRADE, J.)

JPChavan