

18.03.2025

sayandeep

Sl. No. 82

Ct. No. 08

**FMAT (WC) 4 of 2024
With
CAN 1 of 2024, CAN 2 of 2024**

Magma HDI General Insurance Company Limited

Vs.

Nurnisha Bibi & anr.

Mr. Soumalya Ganguli

... for the appellant

In Re: CAN 1 of 2024

Despite service there is no representation on behalf of the respondents. Let the affidavit-of-service filed today be taken on record. The Stamp Reporter has indicated that there is a delay of 25 days in preferring the instant appeal. It is stated in the instant application that the reason for delay in preferring the instant appeal is because of the procedural hassles which requires approval from the various departments.

In absence of any counter affidavit having filed by the respondents who is unrepresented, such statement has to be accepted and we find that the appellant was prevented by a sufficient cause in not preferring the appeal within the statutory period of limitation provided therefor. Accordingly, the delay in filing the instant appeal is condoned.

The application being CAN 1 of 2024 is hereby allowed.

In Re: FMAT (WC) 4 of 2024

Learned counsel appearing for the appellant submits that he has deposited the awarded sum which is the subject matter of challenge in the instant appeal with the Commissioner Employee's Compensation, Durgapur on 07.06.2024 and files the receipt thereof to the Court. Let the said receipt be taken on record.

The instant appeal under Section 30 of the Employee's Compensation Act, 1923 is filed assailing the judgment and order dated 21.02.2024 passed by the Court of Commissioner Employee's Compensation, Durgapur in claim case No. 59 of 2023. By the impugned Judgment, the said claim case was allowed awarding a compensation of Rs. 7,31,965/- along with the simple interest at the rate of 12% per annum from the date of the accident till its realization. The claim case was registered on an unfortunate accident of the son of respondent No. 1 who was employed as a helper in a truck owned by the appellant. The said truck was loaded with the stone chips and in order to protect the same from the rain, the said victim was covering the same but unfortunately fell down therefrom and got electrocuted by a high voltage live electric line running by the side of the road and succumbed at the spot. The witnesses called at the behest of the claimant produces the relevant documents and it is undeniable that the said victim was bachelor and, therefore, the claimant being a mother is entitled to compensation. The witnesses produced the relevant document maintained by the police administration as the death was unnatural and the post-mortem was also conducted. The UD case was registered on 23rd September, 2023 and the challan for sending the corpse of the victim also indicates the date as 23.09.2023. However, the post-mortem report which was exhibited in the said case contains a discrepancies in relation to the dates which encourages the appellant to challenge the said order before this Court by contending that the post-mortem was conducted prior to the date of the incident and, therefore, it raises an important question as to whether there is any such accident or incident ever happened.

The only point raised in the instant appeal is on the basis of such wrong recording of the date appearing from the post-mortem report. Before we proceed to deal

with the aforesaid point, we must recapitulate the object and purpose behind the incorporation of the Employee's Compensation Act, 1923. It is a welfare piece of legislation and enacted to provide a social security to the workman and adequate and reasonable payment of the compensation to such employees for the injury by accident. The avowed object underlined the said incorporation was to make the employer, an insurer of the workmen responsible against the loss cause by the injuries or death which ought to have happened while the workman was engaged in his work. Therefore, it does not absolve the responsibility of an employer in paying just a reasonable compensation to the workman or the employee who suffered death by accident while discharging the duties. The record reveal that the victim was working as a helper and was entrusted with the work of protecting the goods loaded on the commercial vehicle and while discharging such duty, he met with an accident and succumbed to death. There is no ambiguity or discrepancy on the accident having happened causing the death of the victim who was employed with the appellant. The only argument which is advanced before us is that the post-mortem report indicates that the injury which he suffered was prior to the date as mentioned as the post-mortem was done prior to 23rd September, 2023 and, therefore, it cannot be held that the said victim died while discharging the duty on the said date. Since the Act is a beneficial piece of legislation and enacted to protect the workman who died by accident while discharging the duty, it is ardent duty to the Court to consider the same in a more pragmatic and reasonable manner and minor discrepancies cannot act as a deterrent in achieving the object.

The UD case as indicated above was started on 23.09.2023, the body of the victim was sent for post-

mortem on 23.09.2023 and, therefore, any minor discrepancies in the date recorded in the post-mortem report cannot eclipse the real facts. Furthermore, the signature of the surgeon who conducted the post-mortem also contained the date, i.e., 23.09.2023 and, therefore, the wrong mentioning of a date of a dispatch or arrival at the dead house cannot overshadowed the real fact. The Court should not be swayed by the minor discrepancies when the other documents which are impeccable and corroborate the events and does not suggest otherwise.

We thus do not find any substantial question of law involved in the instant appeal.

The appeal is thus dismissed without any order as to costs.

(Harish Tandon, J.)

(Om Narayan Rai, J.)