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72-FA-2514-2024

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

72 FIRST APPEAL NO. 2514 OF 2024

Ramabai Bhojiram Chavan And Ors.

VERSUS

Managing Director, Gangapur Sahakari Sakhar Karkhana Ltd.
Aurangabad.

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Mr. B. V. Dhage, Advocate for Appellants.

Mr. S. S. Arora, Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 24th NOVEMBER 2025

PC :-

1. Heard Mr. Dhage, the learned Advocate for the Appellants, and Mr. Arora, the learned Advocate for the Respondent.
2. The appellants had filed a claim under the provisions of the Workmen's Compensation Act, 1923 before the learned Commissioner/Labour Court at Aurangabad. The present appellant/original claimant No.1 is the wife, claimant Nos. 2 to 5 are the children and claimant No.6 is the mother of the deceased-Bhojiram Chavan.

3. It is the case of the appellants that the deceased Bhojiram Chavan was working with respondent-factory. He was paid Rs.270 per day towards daily wages. On 29th January 2003, he died while operating a crusher in the sugar factory premises, he was fetched in the machine, which was in high speed. The deceased died instantly. A complaint also came to be lodged to that effect. The claimants, therefore, claimed the compensation. In the application, it is stated that the deceased was working as an employee of the sugar factory, and that the accident took place while the deceased was on duty. The accident has arisen out of and in the course of the duty etc. It was the case of the respondent-sugar factory that there was no employer-employee relationship. He was never involved even in the transportation of sugarcane neither was engaged as a sugar cutting labourer. The respondent-factory, therefore, is not liable to pay any compensation.

4. Mr. Dhage, the learned Advocate for the appellants vehemently argued that it was necessary for the authorities to call for records such as the muster roll etc. from respondent to show that the deceased was an

employee of the sugar factory. Without calling for such records, the learned Commissioner has dismissed the claim. He submits that the act itself is a piece of welfare legislation, keeping in view that it was for the Court to call the records. He thus submits that the matter at least required to be remanded for a fresh inquiry.

5. Mr. Arora, the learned Advocate for the respondents, justifies the impugned order. He submits that even primary burden is not discharged by the claimant. He submits that in the present case, the investigation was also carried by the police. However, nothing was found to show that the deceased died during the course of discharge of his duty. He submits that Section 3 and 4 of the Employees' Compensation Act require the claimant to, atleast, make out a case to discharge initial burden of proving the employer – employee relationship. It is only thereafter the burden would shift upon the employer. In the present case, there is no material produced on record by the claimants. He relied upon the following judgments.

- (i) *Joint Secretary, Central Board of Secondary Education Vs. Raj Kumar Mishra*¹;
- (ii) *Shantabai Ananda Jagtap and Anr. Vs. Jayram Ganpati Jagtap and Anr.*²

He thus submits that no case is made out to entertain an appeal. There is also no substance in question of law is involved in the matter. He prays that the appeal deserves to be dismissed.

6. The learned Commissioner, while deciding the claim, has mainly observed that the claimants/applicants had adduced only evidence of claimant No.1 and thereafter closed their evidence by filing pursis Exh.U-16. The police complaint and inquest panchanama were also relied upon. The Court, however, observed that except these documents, nothing is produced on record to discharge even initial burden to prove the relationship of employer – employee. It is thus recorded that in the absence of such evidence, the claim deserves to be dismissed.

7. In the case of ***Shantabai Jagtap*** (supra), the Hon'ble Apex Court observed that it is necessary to prove the employer - employee relation

¹ Law(SC)-2025-3-112

² (2023) 8 SCC 171

for claiming compensation under the Employees' Compensation Act. In that case, there was no evidence to prove existence of master - servant relationship. There was no material and in that case, the Hon'ble Apex Court rejected the claim of the appellant. The High Court confirmed the order in the first appeal. The Hon'ble Court considered that it was necessary to prove relationship of employer-employee before the Commissioner. It is held that it is the basic requirement to be fulfilled by a person claiming compensation.

8. In the case of *Joint Secretary, Central Board of Secondary Education* (supra), the Hon'ble Apex Court held that the employer-employee relationship is the crux of the matter. It is held that the master - servant relationship has to be established on paper. In that case, there was no such evidence available and the Hon'ble Apex Court held that order granting compensation was bad in law.

9. In the present case, it is seen that except for the oral evidence of claimant No.1, no any other evidence is produced on record to establish

employer - employee relationship. This Court finds it difficult to accept the submission of learned Advocate for the appellants that merely because the legislation is beneficial, it was necessary for the learned Commissioner to call for records from the respondent - Sugar Factory.

10. In view of the ratio laid down in the judgment referred to above, this Court finds that no illegality is committed by the learned Commissioner while passing the impugned judgment and order. Consequently, there is no merit in the appeal. No question of law, much less a substantial question of law, arises in the present appeal. The appeal, being devoid of merits, deserves to be dismissed and the same is hereby dismissed, with no order as to costs.

[KISHORE C. SANT, J.]

D.A.Ethape