



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

FIRST APPEAL NO. 3504 OF 2022

1. Maroti S/o Chandar Salunke
Age: 38 years, Occu.: Labour.
2. Arun s/o Maroti Salunke
Age: 15 years, Occu.: Education.
3. Laxman s/o Maroti Salunke
Age: 13 years, Occu.: Education.
4. Shital s/o Maroti Salunke
Age: 10 years, Occu.: Education.
5. Rivala d/o. Maroti Salunke
Age: 8 years, Occu.: Education.
(The applicant nos.2 to 5 are minor
Representing through their natural guardian
Father i.e. Applicant no.1)
All R/o. Aurad (Shahajani)
Tq.Nilanga, Dist.Latur.

....Appellants
(Orig. Claimants)

Versus

1. Executive Director,
Shri. Saibaba Sugar Factory, Gondari,
Tal. Ausa, and Dist.Latur.
2. Sanjay Panditrao Birajdar
Age; Major, Occu.: Business,
R/o. : Kokalgaon, Tal.Nilanga,
Dist.Latur.
3. The New India Assurance Co. Ltd.,
Through its Branch Manager,
Main Road, Latur.
4. Jamir Raheman Biradar
Age: Major, Occu.: Agri.,
R/o. Lamjana, Tal. Ausa, Dist.Latur.Respondents

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Advocate for Appellants : Mr. Ram S. Shinde

Respondent nos.1, 2 and 4 served.

Advocate for Respondent no.3 : Mr. Sudhir V. Kulkarni

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 30 SEPTEMBER, 2025

PRONOUNCED ON : 09 OCTOBER, 2025

JUDGMENT :-

1. This appeal takes exception to judgment and order dated 21-02-2022, passed by the learned Commissioner, Workmen Compensation Act and Judge, Labour Court, Latur, in W.C.A. No.25 of 2015, by which the said proceedings were dismissed.

2. Appellants herein are legal heirs of one Sirsala, a labour, engaged in sugar cutting. On account of death of Sirsala, they set up a case that, deceased was engaged for sugar cutting by respondent no.2 in the field of respondent no.4 for the period from 24-04-2014 to 26-04-2014. On 27-04-2014, sugarcane cutting activity was to be commenced in another field and therefore, on the say of respondent no.2, labours including deceased spent night on the field of respondent no.4. At around 7:30 a.m., when deceased went towards the well to fetch water, she fell and died due to drowning. A specific

case of appellants is that, deceased was working as a labour at the instance of respondent no.1, 2 and 4. The Truck, which was deployed for the activity, over which deceased worked as a labour, was insured by respondent no.3 and as such, all respondents are jointly and severally responsible to pay compensation of Rs.7,88,240/- to the claimants i.e. heirs of deceased.

3. The above claim was contested by respondent nos.1 and 3. Respondent no.2 appeared but did not file written statement. Respondent no.4 refrained appearing and contesting the matter.

In written statement, respondent no.1 put up a case that they are not liable to pay any compensation as deceased did not meet death while undertaking any activity. They also denied engagement / contractual engagement of deceased so as to make them liable to pay compensation and finally urged to dismiss the claim.

4. Respondent no.3/Insurance company also contested and opposed the petition. It has been denied by respondent no.3 that the Truck was insured on the day of incident. Liability is also denied on the ground that vehicle was not actually involved in any manner with alleged incident of death of deceased Sirsala as deceased was not occupying the Truck in question so as to make them liable also. It is

also submitted that case of accidental death was registered.

After appreciating stand of each of the sides, learned trial Court dismissed the petition.

5. Before this Court, much stress is laid on employment of deceased as labour for sugarcane cutting. There is no dispute that death has taken place in the field where sugarcane cutting activity was in progress, but it was for a period from 24-04-2014 to 26-04-2014 only and from the evidence of appellant no.1/original petitioner no.1 itself it is emerging that said activity of sugarcane cutting was already over on 26-04-2014. Moreover, there is no documentary evidence regarding engagement of deceased for a particular period. Stay of deceased seems to be at the field for alleged sugarcane activity, which was to be commenced from 27-04-2014 and that too at a distinct location. Therefore, there is force in the submission of respondent no.3 that, at the relevant time of mishap of death by falling in well, there was no contractual liability *per se* by engagement of deceased. Second point, which is prominently emerging, is that deceased had been towards the well to fetch water for herself and other labours and not for any of the respondents, who had engaged her so as to fix liability on them.

Unfortunate death seems to be due to fall in well and drowning. There is nothing to show that deceased was engaged by respondent no.1 /Shri Saibaba Sugarcane Factory as well as there is nothing to indicate that deceased was occupying the Truck owned by respondent no.2 and it to be in motion and alleged mishap has any nexus with the death. Therefore, for above reasons, this Court does not find infirmity or perversity on the part of learned trial Court in refusing to consider that the deceased died during the course of employment with respondent nos.1 and 2 so as to entitle claimants to receive any compensation on account of death of deceased.

6. Learned counsel for appellants has placed on record citation of Hon'ble Apex court in the case of *General Manager, B.E.S.T., Undertaking, Bombay .. v. Mrs. Agnes, 1963 SCC OnLine SC 252* on the point of workmen compensation to be a beneficial legislation, however, in the said case before the Hon'ble Apex Court, issue was of establishment of deceased therein to be an "employee" and employee - employer relationship to attract the provisions of the Workmen Compensation Act. In that case, deceased was a Bus Driver and after finishing his duty, he has left place of employment and boarded another Bus to reach his home. Appeal of B.E.S.T. was allowed by

holding that deceased did not die due to injuries received in the accident arising out of and in the course of employment and therefore, not entitle to compensation under Section 3 of the Workmen Compensation Act.

In second case of *North East Karnataka Road Transport Corporation v. Sujatha*, (2019) 11 SCC 514 deceased died due to heart attack.

Facts in the case in hand and facts in that case were distinct and issue contested till the Highest Court of Land was on the point of interest over the compensation from the date of order.

7. For above reasons, as here, there is no evidence about casual link or connection between employment and death so as to consider the prayers for grant of compensation, appeal deserves to be dismissed. Accordingly, I proceed to pass following order :

ORDER

First Appeal is dismissed.

**(ABHAY S. WAGHWASE)
JUDGE**