



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

28 FIRST APPEAL NO. 414 OF 2026
WITH CIVIL APPLICATION NO. 6451 OF 2023
WITH CIVIL APPLICATION NO. 14345 OF 2023

SANT SHIROMANI MARUTI MAHARAJ SHET. SAH. SAKHAR KARKHANA
LTD.THR ITS MANAGING DIRECTOR R.B.BARMADE
VERSUS
BIBHISHAN TUKARAM KATE AND ANR

.....
Advocate for Appellant : Mr. Kadam Kailas A.
Advocate for Respondents : Mr. Ganesh L. Kedar
.....

CORAM : Y.G. KHOBRAGADE, J.
DATE : 23.03.2026

PC:-

1. Heard Mr. Kadam the learned counsel appearing for the appellant/establishment and Mr. Kedar, the learned counsel appearing for the respondents/original claimants.
2. By the present appeal under Section 30 of the Employee's Compensation Act, the appellant/employer challenges the legality and validity of judgment and award dated 21.06.2018 passed in Application (WC) No.31/2014 by the learned Commissioner for Employees Compensation and Judge, Labour Court, Latur, thereby directed the present appellant/employer i.e. Sant Shiromani Maruti Maharaj Shetkari Sahakari Sakhar Karkhana Ltd.,

to pay lump sum compensation of Rs.89,600/- with statutory interest @ 12% per annum from the date of accident till the date of realization with penalty of Rs.44,800/-, medial expenses Rs.2,50,000/- and funeral expenses of Rs.5000/-.

3. The learned counsel appearing for the appellant/employer canvassed in vehemence that, the present respondent nos.1 and 2 have filed Application (WC) No.31/2014 under the provisions of Employee's Compensation Act and prayed for compensation on account of accidental death of their son Kandu Bibhishan Kate on 26.06.2012 due to injuries sustained out of the said accident occurred on 04.11.2011 during the course of employment. Though, the present appellant-establishment/employer was served with the notice and appeared through the counsel but no written statement was filed as the establishment of appellant/employer was closed down till the financial year 2018-2019. Therefore, there was no chance to deny the claim of respondent nos.1 and 2. However, the learned Commissioner under the Employee's Compensation Act passed the impugned *ex parte* judgment and award, hence, prayed for quashment of impugned judgment and award and prayed for remand of matter for fresh trial by giving proper opportunity.

4. The learned counsel appearing for the appellant/employer further

canvassed that, the respondent/claimants have not produced any documents on record to prove that Shri Kandu Bibhishan Kate was an employee of the appellant/sugar factory. Further, no documentary evidence was produced before the Trial Court about appointment order of deceased-Kandu Bibhishan Kate, his salary statement, bank statement to prove relationship of employee and employer between the deceased and the appellant. However, the learned trial Court totally ignored all these aspects of the matter and granted compensation, hence, prayed to quash and set aside the same.

5. The learned counsel appearing for the appellant/employer further canvassed that, on 25.06.2011, one Kishan Shinde, entered into an agreement with the appellant/sugar factory for transportation of sugarcane by bullock cart to the factory and said deceased Kandu Bibhishan Kate was working, being a contractual employee with Kishan Shinde (Labour Contractor). Therefore, there is no relationship of employer and employee between appellant and deceased-Kandu Bibhishan Kate, the son of respondent nos.1 and 2. However, the learned Commissioner under the Employee's Compensation Act failed to consider said fact and passed the impugned judgment and award, hence, prayed to quash and set aside.

6. It is further canvassed that, the establishment of the appellant was closed down after the year 2012 and it was re-started after year 2018,

therefore, no written statement was filed and no proper opportunity was granted to the appellant to counter the claim of the respondents/ claimants. Further, the accident had occurred on 04.11.2011 and the deceased-Kandu Bibhishan Kate died on 25.06.2012 after lapse of seven months, however, nothing has been brought on record to prove that the death of deceased was caused due to injuries sustained during the course of employment. Therefore, impugned judgment and award is not sustainable in the eyes of law and prayed for remanding the matter for trial afresh.

7. Per contra, Mr. Kedar, the learned counsel appearing for the respondent nos.1 and 2 supported findings of the impugned judgment and award. He canvassed that the present appellant/original respondent was duly served with the notice and appeared through its counsel but failed to file written statement. Therefore, the application for compensation proceeded *ex parte* vide order dated 22.09.2015. So also, during the course of trial, the respondents/claimants have proved various documentary evidence which proves accidental death of Kandu Bibhishan Kate during the course of employment. The son of the present respondents was engaged with appellant/employer for cutting of sugarcane for the season 2011-2012 on wages @ Rs.190/- per tonne and he was transporting sugar cane by bullock cart at the establishment of the appellant. On 04.11.2011 at about 7.00 pm.,

late Shri Kandu Bibhishan Kate, the son of the respondents collapsed and was buried under the bullock cart loaded with sugarcane, due to which he sustained serious injuries to his backbone. Thereafter, the injured Kandu Bibhishan Kate was hospitalized at Apex Hospital, Latur and later on he succumbed to the injuries on 25.06.2012. Therefore, considering the material produced during the course of trial, the learned trial Court held that, late Kandu Bibhishan Kate died due to accident during the course of his employment on 25.06.2012 and considering his age as well as daily income out of employment, lump sum amount of compensation of Rs.8,96,000/- with interest as well as medical and funeral expenses was awarded. Therefore, findings of the learned trial Court are just and proper, hence, prayed for dismissal of the appeal.

8. Having regard to the submissions canvassed on behalf of both the sides, I have gone through the record. It is a matter of record that, Kandu Bibhishan Kate, son of the present respondent/original claimants was engaged for cutting of sugarcane for the season 2011-2012 with the present appellant/employer. On 04.11.2011, at about 7.00 pm, Kandu Bibhishan Kate was carrying bullock cart loaded with sugar cane from Hipparga, Tq. Ausa, Dist. Latur to the present appellant/sugar factory and while passing by Mahadev Mandir, the bullock cart loaded with sugarcane turned turtle and

Kandu Bibhishan Kate was buried under the bullock cart due to which he sustained serious injuries to his backbone. Thereafter, the injured was shifted to Apex Hospital, Latur for treatment and subsequently he was shifted to Sancheti Hospital, Pune for further medical treatment, wherein he was hospitalized for a considerable period due to grievous injuries. However, during the course of treatment he died on 25.06.2012.

9. During the course of trial, the respondents/claimants filed evidence affidavit at Exh.U-7. The witness of the Respondents/claimants testified evidence affidavit by entering into witness box and proved various documents i.e. post mortem report, lab report, discharge card, discharge summary, medical bills, claim notice, RPAD receipt, copy of application submitted to the police station, spot panchanama, inquest panchanama, statements of witnesses recorded by the police and other documents as described in para 8 of the impugned judgment and award.

10. Though, the appellant/employer contended that, the deceased Kandu Bibhishan Kate was engaged as a contractual labour through the labour contractor Shri Kishan Shinde with whom agreement was executed on 25.06.2011, however, the appellant/employer failed to prove said labour contract agreement before the trial Court as the appellant appeared before the trial Court but has failed to file written statement and no witnesses were

examined. Therefore, it shows that the present appellant/employer kept away from trial for several years and did not participate in the proceeding and after service of notice in execution proceeding, the appellant has filed the present appeal, which does not substantiate to the *bona fide* of the appellant.

11. Needless to say that, the appellant came with the plea that, the establishment of the appellant was closed from the year 2012 and it was re-started after 2018, however, no satisfactory materials are brought on record to show that what cause was preventing the appellant from filing written statement and participating before the trial Court. Therefore, I do not find any substantial grounds to interfere with the findings recorded by the trial Court, hence, the appeal is dismissed. The amount of compensation deposited by the appellant/employer before the trial Court be disbursed in favour of the respondents. Civil applications, if any, pending also stand disposed of.

LATER ON:

12. After the order is dictated, the learned counsel appearing for the appellant/employer prayed for stay to the disbursement of amount to the respondents for a month, however, I do not find any substantial reason to entertain the request. Hence, the same is rejected.

[Y.G. KHOBRADE, J.]