
(2003) 01 PAT CK 0033
In the Patna High Court
Case No : M.A. No. 418 of 2000

Divisional Manager

APPELLANT

Vs

Smt. Runa Devi and Others

RESPONDENT

Date of Decision : 28-01-2003

Acts Referred:

Citation : (2003) 01 PAT CK 0033

Final Decision : Allowed

Judgement

P.K. Deb, J.—Heard the learned Counsel for the parties.

2. This appeal has been preferred against award of compensation granted by the Presiding Officer, Labour Court Bhagalpur in W.C. Case No. 4 of 1995 and the compensation awarded is to the tune of Rs. 1,56,175.20 paise. The only point raised before this Appellate court is that the P.O. Labour Court, had committed error in making calculation on the basis of the schedule given in the Amended Workmen Compensation Act which came into force on 15.9.1995 although the occurrence took place on 9.2.1994 while the Old Act was in vogue. There were confusions as to which of the Act would be applicable. Whether the new Act would come for the purpose of calculation at the time of adjudication or whether the matter should be considered on the date of occurrence itself. At one point of time a Division Bench of the Apex Court held that if at the time of adjudication new Act has come into force then the calculation shall be made on the basis of the New Act. But then a Bench of Judges held as reported in Kerala State Electricity Board and Another Vs. Valsala K and Another, that these section of enhanced rate of compensation cannot come into play even if the adjudication is taken after coming into force the amended Act rather the Act would come into play when the alleged accident took place. In that way in the present case then the death occurred on 9.2.1994 then the calculation made on the basis of the low Act which came into force on (sic) 9.1995 is bad in the eye of law. The calculation should be on the basis of Section 4 of the Old Act as per its explanation, that way the calculation portion of the award of the compensation as granted the

Presiding Officer of Labour Court which has been impugned is hereby set (sic) aside and the matter is sent back to the Presiding Officer to calculate the compensation on the basis of Section 4 of the Old Act with its explanation.

3. The appeal is hereby allowed but in circumstances of the case, there shall be no order as to costs.