

(2015) 08 PAT CK 0092

In the Patna High Court

Case No : Miscellaneous Appeal No. 849 of 2012

Divisional Manager, United India Insurance Co. Ltd. and
Others

APPELLANT

Vs

Rina Devi and Others

RESPONDENT

Date of Decision : 03-08-2015

Acts Referred:

Workmens Compensation Act, 1923 — Section 10-A, 10-B, 16, 20, 8

Citation : (2015) 147 FLR 488

Hon'ble Judges : Shivaji Pandey, J.

Bench : Single Bench

Advocate : Durgesh Kumar Singh, for the Appellant; Bijay Kumar Singh, for the Respondent

Final Decision : Allowed

Judgement

Shivaji Pandey, J.—Heard the parties. I.A. No. 6304 of 2014 has been filed for condonation of delay.

2. This Court is satisfied with reasons assigned in the aforesaid interlocutory application. Accordingly the delay in filing the appeal is hereby condoned and I.A. No. 6304 of 2014 is disposed of.

3. In the present appeal the appellants are challenging the order dated 4.10.2012 passed by the Deputy Labour Commissioner-cum- Commissioner workmen Compensation, Muzaffarpur in WCC No. 10 of 2009 by which compensation has been allowed against the appellants.

4. In the present appeal short question has been raised about the competency of Deputy Labour Commissioner, Muzaffarpur to decide the contested case as has been claimed that he has only jurisdiction to deal with uncontested cases.

5. From the record it appears that one Pappu Singh alias Braj Kishore Singh driver of a truck bearing registration No. HR-38K-7446 was kidnapped and killed

by the miscreants which led to filing of the case under the Workmen's Compensation Act vide WC No. 10 of 2009. Insurance Company has appeared and has challenged the jurisdiction of Deputy Labour Commissioner on the ground of territorial jurisdiction as also the claim of compensation.

6. In such circumstances only Labour Court of area concerned has jurisdiction to entertain the dispute of contested cases in view of notification issued under section 20 of the Workmen Compensation Act wherein the State has notified that in contested cases, Labour Court of the area concerned will have jurisdiction and Deputy Labour Commissioner is Commissioner for uncontested cases under Workmen Compensation Act and as such Deputy Labour Commissioner has no jurisdiction to pass an order in contested cases. It will be relevant to quote the relevant notification:

"In exercise of the powers conferred by sub-sections (1) and (2) of section 20 of the Workmen's Compensation Act, 1923 (Act VIII of 1923) and in supersession of all previous notifications issued on the subject the Governor of Bihar is pleased to appoint the officers named in column 2 of Schedule hereto annexed to be ex-officio Commissioners for Workmen's Compensation within the local limits of their respective jurisdiction as specified in Column 4 of the said Schedule and to declare that:---

(a) The Presiding Officers of the Labour Court, as ex-officio Commissioners for Workmen's Compensation shall deal with all contested cases arising under the said Act and the Rules framed thereunder;

(b) The officers other than the Presiding Officer of the Labour Courts as ex-officio Commissioners for workmen's compensation shall deal with non-contested cases only arising under the said Act and the Rules framed thereunder;--

(c) All deposits of Workmen's Compensation amount for disbursement in pursuance" of section 8 shall be made with the Commissioner for Workmen's Compensation of the areas concerned other than the Presiding Officers of the Labour Court, as ex-officio Commissioner of Workmen's Compensation;

(d) All returns as required under sections 10-A, 10-B and 16 of the said Act shall be submitted to the respective Commissioners for the Workmen's Compensation other than the Presiding Officers of Labour Courts as ex-officio Commissioners for Workmen's Compensation; and

(e) All petitions" for claim of Compensation shall be filed in the Court of the Commissioner for the Workmen's Compensation; for uncontested case and in case this becomes contested, they will be transferred to the respective Presiding Officers of the Labour Courts, as ex-officio Commissioner for Workmen's Compensation for disposal."

7. In view of the notification aforesaid Deputy Labour Commissioner does not have jurisdiction to adjudicate the contested cases under the Workmen Compensation Act but the Labour Court of area concerned has jurisdiction to

adjudicate such dispute. It is well known principle of law that even by agreement of the parties jurisdiction cannot be conferred to Court or Tribunal to adjudicate the dispute if has no jurisdiction on the subject.

8. In such view of the matter the order of Deputy Labour Commissioner, Muzaffarpur is per se illegal and not sustainable in law.

9. Accordingly the impugned order 4.10.2012 is hereby quashed. The Deputy Labour Commissioner, Muzaffarpur is directed to transfer the records of the case to the Labour Court, Muzaffarpur within a period of one week from "the date of receipt/production of a copy of this order. On receipt of the same Labour Court, Muzaffarpur is directed to decide the case after giving due notice to the parties within a period of six months from the date of receipt of the record. Accordingly this appeal is allowed.