

(2007) 08 DEL CK 0227

In the Delhi High Court

Case No : Writ Petition (c) No. 587 of 2006

Employees State Insurance Corporation

APPELLANT

Vs

Budh Raj (Decd.) thr" Lrs.

RESPONDENT

Date of Decision : 20-08-2007

Acts Referred:

Citation : (2008) 116 FLR 486 : (2008) 1 LLJ 901

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : Bhupesh Narula, for the Appellant;

Final Decision : Disposed Off

Judgement

Hima Kohli, J.—The respondents were proceeded ex parte, vide orders dated July 14, 2006. The writ petition is listed today for final disposal.

2. The present writ petition is directed against the award dated February 10, 2005, passed by the Central Government Industrial Tribunal Cum Labour Court-II (CGIT) in L.C.A. No. 60/2000 whereunder, the petitioner was directed to make a payment of Rs. 1,00,000/- to Ms. Raj Rani, the widow of the deceased respondent workman within two months from the date of the order.

3. It is stated by counsel for the petitioner that the aforesaid award is erroneous as the parties were not granted any opportunity for adducing their evidence and in fact no date was fixed in the main case for the reason that the application filed by the respondents for substitution of their name in place of the deceased workman was still pending.

4. The Trial records were summoned. A perusal of records shows that when the impugned award came to be passed, the matter was at the stage of filing of the documents of the petitioner/management. The contention of the counsel for the petitioner that documents were not filed by the management and the matter was renotified on September 4, 2001 for filing the management's documents as also

the Authority letter on behalf of the management, is borne out by perusal of the order sheet dated July 5, 2001, of the Court below.

5. In the meantime, the respondent workman expired on November 11, 2001. Vide order dated January 24, 2002, the C.G.I.T recorded the fact of death of the respondent workman and also noted that his death certificate had been filed. The case was renotified for April 4, 2002 to bring on record the legal heirs of the deceased workman. On April 4, 2002 the case was adjourned to July 4, 2002 for further proceedings. On July 4, 2002, the matter was adjourned to September 5, 2002 as the Presiding Officer was stated to be on official tour. However, it was recorded that no objections had been filed by the legal heirs of the deceased workman with copies to the management, for bringing on record the widow of the deceased workman as his legal heir and time was granted to the petitioner management to file reply to the said application. Thereafter the matter was renotified from time to time right from September 5, 2002 till January 27, 2005 for disposing the said application. Vide order dated December 8, 2003, the case was transferred from the Court of C.G.I.T.-cum-Labour Court No.-I to C.G.I.T.-cum-Labour Court No.-II on the directions of the Ministry of Labour, Government of India.

6. As none was present for the workman, case was adjourned on January 27, 2005 and it was recorded that the management requested for an order. It is stated that the orders sought by the petitioner management were for disposal of the application of the respondent workman to bring on record his legal heirs. However, on February 10, 2005, the impugned award came to be passed without affording an opportunity to either of the parties to adduce evidence in the matter. A perusal of the record of the Trial Court record shows that no evidence was recorded in this matter. In fact, the matter was still at the stage of disposal of the application filed by the legal heirs of the deceased workman for substitution and even the said substitution had not taken place. Hence, there was no question of proceeding with the main case and passing the impugned award.

7. For the aforesaid reasons, it is deemed just, fit and proper to quash the impugned award dated February 10, 2005. The case is remanded back to the Industrial Adjudicator to proceed further from the stage at which the case was pending on January 27, 2005, namely, to dispose of the application filed on behalf of the legal heirs of deceased respondent workman for substitution of the legal heirs in the first instance. As none has entered appearance on behalf of the respondents in the present case, the Industrial Adjudicator shall issue fresh notice to the legal heirs of the deceased workman before proceeding further with the case.

8. List this matter on September 27, 2007 before the Industrial Adjudicator for further proceedings. A copy of this order be also forwarded to the Industrial Adjudicator for information.

The Registry is directed to return the Trial Court record to the Industrial

Adjudicator immediately.