
(2014) 10 RAJ CK 0032

In the Rajasthan High Court

Case No : Civil Misc. Appeal No. 1444 of 2014

I.C.I.C.I. Lombard General Insurance Co. Ltd.

APPELLANT

Vs

Khatudi and Others

RESPONDENT

Date of Decision : 30-10-2014

Acts Referred:

Workmens Compensation Act, 1923 — Section 10, 22

Citation : (2015) 144 FLR 212

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Advocate : Vinay Kothari, Advocates for the Appellant

Judgement

Vijay Bishnoi, J.—This misc. appeal has been preferred by the appellant Insurance Company against the judgment dated 23.6.2014 passed by the Workmen Compensation Commissioner, Udaipur (hereinafter referred to as "the Commissioner") on a claim petition preferred by the respondents No. 1 to 4 under sections 10 and 22 of the Workmen Compensation Act, 1923 (hereinafter referred to as "the Act of 1923"). Brief facts of the case are that the respondent-claimants filed a claim petition before the Commissioner stating that deceased Parma Lal was employed as driver on the truck bearing registration No. RJ 27-GA-2719 owned by the respondent No. 5 Shri Anwar Hussain and insured with the appellant Insurance Company. On 3.7.2012, deceased Panna Lal was driving the insured truck from Narayan Gaon to Udaipur and the said truck over turned near Saputara, Gujarat and in that accident Panna Lal died. The respondent-claimants claimed compensation under the Act of 1923.

2. Notices were issued by the Commissioner to the Insurance Company as well as owner of the insured truck. Due to non-appearance of the owner of the insured truck, ex-parte proceedings were initiated against him, however, the appellant Insurance Company contested the claim petition. The Commissioner after recording the evidence of the parties concerned has allowed the claim petition filed by the respondent claimants and ordered for paying compensation

to the tune of Rs. 8,61,520/- along with simple interest at the rate of 12% per annum payable from 3.8.2012.

3. Assailing the impugned judgment dated 23.6.2014, the learned Counsel for the appellant, has argued that the learned Commissioner has not taken into consideration that the respondent-claimants have failed to prove that deceased Panna Lal was employed as driver on the insured truck, owned by the respondent No. 5, by producing cogent and material evidence. It is submitted that the respondent-claimants have not produced any documentary evidence to prove the fact that deceased Panna Lal was employed as driver of the insured truck or was driving the said truck on 3.7.2012, when the accident took place. It is also argued that the learned Commissioner has not calculated the amount of compensation in accordance with law and the compensation awarded cannot be termed as just compensation.

4. On the strength of above argument, learned Counsel for the appellant has prayed for quashing the judgment dated 23.6.2014.

5. Heard learned Counsel for the appellant and perused the impugned order.

6. Before the learned Commissioner, the factum of accident was proved by the documentary evidence such as police report, charge-sheet and post mortem report. In her statement, wife of the deceased Panna Lal has specifically stated that her husband was employed as a driver on the insured truck and his income was Rs. 6,000/- per month along with allowance at the rate of Rs. 100/- per day. The evidence produced on behalf of the claimants have not been contradicted by the appellant and the learned Commissioner after recording this fact has decided the issues No. 1 and 2 in favour of claimants and against the appellant as well as the respondent No. 5. The learned Commissioner has also decided the issue No. 3 against the Insurance Company and has ordered that Insurance Company is liable to pay simple interest on the compensation at the rate of 12%. After going through the judgment passed by the learned Commissioner, this Court does not find any illegality in the same.

Resultantly, there is no merit in this appeal. The same is hereby dismissed. The stay petition is also dismissed.