

(1997) 12 PAT CK 0068
In the Patna High Court

Indian Steel and Wire Products Ltd.

APPELLANT

Vs

Akila Khatoon and Another

RESPONDENT

Date of Decision : 19-12-1997

Acts Referred:

Employees Compensation Act, 1923 — Section 20

Citation : (1998) 1 ACC 381

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Judgement

Narayan Roy, J.—I have heard Counsels for the parties.

2. The delay, if any, in filing the appeal is condoned.

3. In this appeal a pure question of law is involved.

4. It appears that the claimant, namely, Akila Khatoon filed an application before the Deputy Labour Commissioner-Cum-Commissioner under the Workmen's Compensation Act, 1923 (hereinafter referred to as the "Act") for payment of adequate compensation to her on account of the death of her son Mid. Wasir in course of his employment by the contractor under the appellant-Company. In the petition it has been stated that her son received electric shock in course of his employment as a result of which he died and, therefore, she claimed a compensation amounting to Rs. 47,000/- and odd.

5. Pursuant to the petition aforesaid, the Deputy Labour Commissioner passed the impugned order as contained in Annexure-7 directing the appellant-employer to pay a sum of Rs. 53,000/- and odd towards compensation and penalty to the applicant.

6. Learned Counsel appearing on behalf of the appellant submitted that the claim raised by the applicant was disputed before the Deputy Labour Commissioner and, therefore, the matter could have been adjudicated upon by a Competent Authority as per the Notification issued by the State Government u/s 20 of the

Act. Learned Counsel further submitted that the State Government vide S.O. No. 129 dated 24.1.1985 published in the Bihar Gazette, Extraordinary No. 48 dated 24.1.1985 has notified the Presiding Officer Labour Court, Jamshedpur, as a Competent Officer under the Act to adjudicate the claims. Learned Counsel further submitted that the Labour Commissioner in such a situation could have referred the matter to the Labour Court concerned for adjudication and could not have decided the claim itself. Learned Counsel, therefore, submitted that the order impugned is wholly without jurisdiction and is liable to be set aside.

7. The legal proposition as propounded by the learned Counsel for the appellant is not disputed by the learned Counsel appearing for the respondent No. 2 as it is a pure question of law. In view of the Notification issued by the State Government as noticed above, the claim of the claimant could have been gone into only by the Presiding Officer, Labour Court, Jamshedpur and the Deputy Labour Commissioner had no jurisdiction to deal with the matter.

8. In that view of the matter, I allow this appeal and set aside the impugned order passed by the learned Deputy Labour Commissioner, Jamshedpur, and the Deputy Labour Commissioner is directed to refer the application filed by the claimant to the appropriate Labour Court as mentioned above for proper adjudication. No order as to costs.