

(2010) 10 SHI CK 0310
In the High Court Of Himachal Pradesh
Case No : FAO No. 126 of 2010

Jai Santoshi Mata Hydro Project Limited	APPELLANT
Vs	
Smt. Chhanchla Alias Chingan	RESPONDENT

Date of Decision : 25-10-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, 150
Workmens Compensation Act, 1923 — Section 22

Citation : (2010) 10 SHI CK 0310

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Judgement

V.K. Sharma, J.—Heard.

2. Admittedly, Shri Chaman, son of the respondent/claimant Smt. Chhanchla alias Chingan was on the rolls of the appellant Company as a workman. It is also not disputed that the workman had unfortunately died in an accident, which had taken place on 12th March, 2009, during the course of his employment with the appellant. Accordingly, an application u/s 22 of the Workmen's Compensation Act, 1923 was filed before the Commissioner, Workmen's Compensation, Chamba, District Chamba, H.P., which was decided against the appellant vide exparte order dated 30th December, 2009, whereby a sum of Rs. 4,36,957 has been awarded as compensation in favour of the respondent.

3. The learned Counsel for the appellant submits that though notice of the petition was served upon it and as a consequence, it had also engaged a counsel. However, thereafter owing to the intervening rainy season and unavoidable circumstances there being communication gap between the appellant Company and the learned Counsel, due to which exparte proceedings were ordered against it, culminating into passing of the exparte award dated 30th December, 2009. It is further submitted that the appellant Company was very well covered under a policy of Insurance covering risk of the deceased workman. A copy of Insurance cover note has also been brought on record of this appeal. Though an application

under Order 1 Rule 10 read with Section 151 CPC has also been filed with a prayer to implead New India Assurance Company as a party respondent to the present appeal, yet at the time of submissions at the Bar, the learned Counsel for the appellant prays that the appeal may be accepted and the case remanded to the learned Court below for decision afresh after impleading the Insurance Company as a party to the proceedings. The submission in this regard is not seriously opposed by the learned Counsel for the respondent except that even if the case is remanded, the amount of compensation deposited by the appellant may not be ordered to be refunded to it till disposal of the case before the Commissioner, Workmen's Compensation, Chamba, which prayer is granted in the interest of justice.

4. Against the above backdrop, it shall be expedient and in the interest of justice to accept this appeal and to remit the case to the learned Court below for disposal afresh in accordance with law. The learned Commissioner, Workmen's Compensation, shall consider the prayer on behalf of either of the parties to implead the aforesaid Insurance Company as a party to the proceedings and then proceed in the matter from that stage onwards and dispose of the application finally as per law and preferably within a period of four months.

The appeal stands disposed of in the above terms and consequently, the impugned award dated 30th December, 2009 shall stand set aside.