

(2011) 09 MP CK 0085
In the Madhya Pradesh High Court
Case No : M.A. No. 2494 of 2010

M.P. State Electricity Board

APPELLANT

Vs

Mangal Prasad Patle

RESPONDENT

Date of Decision : 06-09-2011

Acts Referred:

Workmens Compensation Act, 1923 — Section 30

Citation : (2012) 1 TAC 765

Hon'ble Judges : J.K. Maheshwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

J.K. Maheshwari, J.—This appeal has been filed u/s 30 of the Workmen's Compensation Act challenging the order dated 3rd April, 2010 passed by the Commissioner Workmen's Compensation, Jabalpur in Case No. 42/2006/Non Fatal. By the said judgment the commissioner awarded an amount of Rs. 3,15,792/- and directed to deposit within 45 days. It has further been directed that the interest from the date of filing of the claim petition till passing of the award @ 7.5% per annum be paid. It has also been directed that if the amount has not been deposited within 45 days the claimant shall be entitled for the interest @ 12% per annum.

2. This appeal has been admitted on 14th August, 2010 on the following substantial question of law. :-

Whether an employee employed as a helper is entitled to claim the compensation for the injuries sustained by him during the course and arising out of employment as he was doing the work for which he was not authorized to work as lineman.

3. The appellants have taken defence that the injured was duty at Ganeshganj, District Seoni having its Headquarter Gorakhpur, sub-station. The work of the helper is to assist the Assistant Lineman and not to work to check line having

flow of current. It is further stated that on the date of incident incurred was working without having any order of the higher authorities. However, the injured himself is liable for his negligence, if any, committed by him. Therefore, the Compensation cannot be directed to be awarded against the appellant.

4. The trial Court has framed issue No. 2 in this regard. After discussing the statement of the employees of the appellant finding has been recorded that the relevant witness is Chaturdas Choudhary, Lineman, to whom the intimation was given has not been brought in a witness box, who may be a person to give correct picture before the Court with respect to submitting the intimation of the complaint and to work on the spot. After perusal of the documents Ext. D-1 to D-15 it was found that the injured was authorized to work and the permission was taken by him from Makhhan Chandrawanshi on telephone to attend the complaint. The appellants have not brought Makhhan Chandrawanshi in the witness box, who may give the correct picture. Thus, in absence to prove the defence as put-forth by the appellants and looking to the in ocular statements of witnesses of appellants and the document Ex. D-1 whereby the injured was authorized to work in village Medhki and the finding that he was on duty at the relevant point of time when the accident has taken place and working under the instructions of the officials. The Commissioner due to amputation of the left hand from shoulder accepting the disability to the extent of 90% compensation has been awarded as ascribed hereinabove.

5. After having heard Shri Sharad Punj, Learned Counsel appearing on behalf of the appellants and on perusal of the document Ex. D-1 it is apparent that the injured was authorized to work in the area of village Medhki where the incident has taken place. The intimation was given by him to Chaturdas Choudhary regarding stop of the electric supply. The permission to attend a complaint has been obtained on telephone from Makhhan Chandrawanshi. Both these persons are the employees of the appellants Board but they have not been called in a witness to the established the defence as put forth by the appellants. In absence of the material witness the Commissioner Workmen's Compensation has rightly recorded the finding on the issue. The said finding appears to be just and correct. More so it is a much less finding of fact. No evidence has been shown before this Court to demonstrate that such finding is perverse.

6. In that view of the matter I am of the opinion that the question of law as framed is hereby answered in negative upholding the finding as recorded by the Commissioner Workmen's Compensation.

7. In view of the foregoing I do not find any substance in this appeal, hence, it is dismissed with cost of Rs. 2,500/- . The record of the Commissioner Workmen's Compensation be immediately sent for disbursement of the amount as awarded.