

(2007) 02 PAT CK 0115
In the Patna High Court
Case No : M.A. No. 445 of 2002

National Insurance Company

APPELLANT

Vs

Chanchala Devi and Others

RESPONDENT

Date of Decision : 05-02-2007

Acts Referred:

Workmens Compensation Act, 1923 — Section 4

Citation : (2007) 02 PAT CK 0115

Hon'ble Judges : S.N. Hussain, J

Bench : Single Bench

Advocate : Ashok Priyadarshi, for the Appellant; Rakesh Ambastha, for the Respondent

Final Decision : Allowed

Judgement

S.N. Hussain, J.—Heard learned Counsel for the appellant and learned Counsel for the respondents.

2. This Misc. Appeal, is directed against the judgment and award dated 31.07.2002 passed by the Deputy Labour Commissioner-cum-Commissioner for workmen Compensation Magadh Range, Gaya in CWC Case No. 32 of 1998 by which the appellant-opposite party was directed to pay Rs. 2,15,280/- as compensate on to the claimant under the provision of Section 4 of the Workmen's Compensation Act, 1923.

3. After hearing the learned Counsel for the parties and (considering) the materials on record including the impugned order, it is quite apparent that the matter was a contested one and the impugned order was passed after hearing both the sides. It is also not in dispute that the impugned order was passed by Deputy Labour Commissioner-cum-Commissioner for Workmen Compensation, Magadh Division, Gaya.

4. A decision of this Court in case of Most. Parmada Devi Vs. Sri Bishwanath Singh and Others, has been referred. In the said decision, this Court has

specifically hold that the Presiding Officer of the concerned Labour Court has been declared as the ex-officio Commissioner for Workmen's Compensation to deal with the non-contested cases only arising under the Act and the rules framed thereunder, and he does not have jurisdiction to deal with the matters contested between the once such a contest was set up the Deputy Labour Commissioner-cum-Commissioner Workmen Compensation was bound in law to refer the matter to the labour court having jurisdiction over the matter for adjudication. In the said case, reliance had also been placed upon the decision of this Court in case of Raj Kishan and Company Vs. The State of Bihar and Others, and also the decision of this Court in case of Most. Bigai Devi v. Divisional Manager, Railway, Mugalsarai and Ors. in M.A. No. 108 of 2000 decided by judgment dated 02.08.2002.

5. Considering the aforesaid facts and circumstances, the instant Misc. Appeal is allowed and the impugned order passed by the Deputy Labour Commissioner-cum-Commissioner for Workmen Compensation, Magadh Range, Gaya is set aside and he is directed to refer the dispute to the Labour Court for proper adjudication on all the points.

6. Learned Counsel for the parties agreed that they shall appear in the court below on their own within one month from today. It may be noted here that this Court has not considered the matter on merits.