

**(2007) 08 PAT CK 0136**  
**In the Patna High Court**

National Insurance Company Ltd.

APPELLANT

Vs

Most. Radheshwari Devi and Others

RESPONDENT

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**Date of Decision :** 24-08-2007

**Acts Referred:**

Employees Compensation Act, 1923 — Section 4

**Citation :** (2007) 08 PAT CK 0136

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

**Bench :** Single Bench

**Final Decision :** Allowed

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**Judgement**

S.N. Hussain, J.—Heard learned Counsel for the appellant and learned Counsel for the respondent-claimants.

2. This Misc. Appeal is directed against the judgment and award dated 08.05.2004 passed by the Deputy Labour Commissioner-cum-Commissioner for Workmen's Compensation, Gaya in C.W.C. Case No. 15 of 1999, by which the appellant (Opposite Party) was directed to pay Rs. 2,03,850.00 as compensation to the claimant-respondents under the provision of Section 4 of the Workmen's Compensation Act, 1923.

3. After hearing the learned Counsel for the appellant 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, 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 held that the Presiding Officer of the concerned Labour Court has been declared as the ex-officio Commissioner for Workmen's Compensation to deal with 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 parties. It was also held in that decision that 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 decisions of this Court in case of Raj Kishan Co. v. The State of Bihar and Ors. reported in 1993(1) PLJR 803.

5. Considering the aforesaid facts and circumstances, the instant Misc. Appeal is allowed and the impugned judgment and award passed by the Deputy Labour Commissioner-cum-Commissioner for Workmen Compensation, 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 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.