
(2009) 03 PAT CK 0023
In the Patna High Court
Case No : C.W.J.C. No. 3431 of 2009

Oriental Insurance Company Ltd.

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 23-03-2009

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Workmen's Compensation Act, 1923 — Section 30

Citation : (2010) 126 FLR 552 : (2009) 123 FLR 311

Hon'ble Judges : M.K. Jha, J

Bench : Single Bench

Advocate : Ashok Priyadarshi, for the Appellant;

Final Decision : Dismissed

Judgement

M.K. Jha, J.—Heard Mr. Ashok Priyadarshi, Counsel for the petitioner and the Counsel for the State.

In this writ application a prayer has been made for quashing/setting aside the order dated 2.7.2007 passed by the Deputy Labour Commissioner-cum-Commissioner Workmen's Compensation, Munger Division, Begusarai awarding compensation to the tune of Rs.3,94,776/- to respondent No. 3.

2. Counsel for the petitioner would explain that though there is statutory alternative remedy by way of an appeal before the High Court u/s 30 under the Workmen's Compensation Act, hereinafter referred to as the Act this Court can even then interfere in exercise of its power under Articles 226 and 227 of the Constitution of India because the order passed by the Deputy Labour Commissioner is wholly without jurisdiction, inasmuch as the Labour Court alone in this State have been authorized to deal with the disputed cases of workmen compensation. He would also refer to an interim order passed by this Court in C.W.J.C. No. 3415/2009 wherein this Court at the stage of admission has issued notice in an identical matter by the order dated 23.3.2009.

3. In the opinion of this Court either of the two grounds are not good grounds because there is a statutory alternative remedy where even the question of Deputy Labour Commissioner being not a Court or prescribed authority can be easily gone into by this very Court in terms of section 30 of the Act. At this stage Mr. Priyadarshi very fairly submits that such an appeal was not filed by the petitioner Insurance Company because the period of limitation had already expired.

4. If that be the consideration of filing a writ application, the Insurance Company must thank its star. The Insurance Company cannot bypass a statutory alternative remedy to avoid payment of the statutory amount as required u/s 30 of the Workmen's Compensation Act nor can it be permitted to take recourse to a writ petition for avoiding the statutory time limit in filing such appeal.

5. That being so, this application is wholly frivolous and misconceived and is accordingly dismissed with a note of caution that if in future the petitioner Insurance Company would again recourse to filing of a similar frivolous writ petition, it may be subjected to payment of exemplary cost. The Insurance Company being an agency of the Government should be aware that it is not expected to behave like a veteran litigant and must realize that its expenditure in legal remedies also are met from public money.

6. The dismissal of this writ application, however, will not come in the way of the Insurance Company in filing of the appeal against the impugned order.