

(1998) 12 PAT CK 0067
In the Patna High Court
Case No : C.W.J.C. No. 2074 of 1998

Raj Kishan and Company	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 10-12-1998

Acts Referred:

Workmens Compensation Act, 1923 — Section 20(1), 20(2), 4, 47

Citation : (1999) 1 PLJR 803

Hon'ble Judges : N. Pandey, J

Bench : Single Bench

Advocate : Arun Kumar No. 2, for the Appellant; Ram Sumiran Singh and J.C. to S.C. 7 for State, for the Respondent

Judgement

N. Pandey, J.—In this writ petition the Petitioners have prayed for quashing the order of the Deputy Labour Commis-sioner-cum-Workman Compensation Commissioner, Darbhanga Division (Respondent No. 2), as contained in Annexure-1, whereby, he directed the Petitioner to deposit a sum of Rs. 58,329.76 (rupees fiftyeight thousand three hundred twen-ty-nine and seventy six paise) by way of compensation in favour of late Shiv Nan-dan Singh, whose heirs are Respondents-No. 3(a) to 3(f) to the writ application.

2. It appears late Shiv Nandan Singh sustained injuries while performing his duties on 29.8.1986. Accordingly he made a claim for compensation against the Petitioners before Respondent No. 2 Thereafter on 11.11.1987 by a notice (An-nexure-2) Petitioners called upon to show cause as to why an appropriate order for payment of compensation be not passed. The Petitioners, thereafter, on 27.11.1997 through a letter, contained in Annexure-3, informed Respondent No. 2 that the concerned employee was not employed under their establishment rather he was employee of M/s. R.S. and Company, Civil and Mechanical Contractor, at and P.O. Bihat Pirsthan in the district of Begusarai.

3. The grievance is since Petitioners had contested the claim of late Shiv Nandan Singh, Respondent No. 2 had no jurisdiction to adjudicate such dispute. Because

as per the notification of the State Government, issued under Sub-sections (1) and (2) of Section 20 of the Workmens Compensation Act, 1923, in a case where the claim of a workman for compensation was being contested, it was the Presiding Officer of the Labour Court, who shall have jurisdiction to adjudicate such matter. In this case from a bare reference to Annexure-3, it would appear that the Petitioners had contested the claim of late Shiv Nandan Singh. Therefore, it was not open to Respondent No. 2 to adjudicate and decide his claim.

4. He next contended that otherwise also the impugned order suffers from the material irregularity, as no finding has been recorded about the extent of disability. Because as per the requirement of Section 47 while awarding the amount of compensation, the authority will have to record a finding regarding the nature of disability. In this case unfortunately no such finding has been recorded.

5. Although no counter affidavit has been filed on behalf of the contesting Respondents, but the learned Counsel who has appeared, tried to refer the notings of Respondent No. 2 in his file to show that the injury sustained by the workman was grievous and permanent in nature. In my view, it will not be possible for the learned Counsel to meet the requirement of Section. 4, unless and until a finding is recorded by the concerned authority in the impugned order. Because a court while testing the validity of the order has to consider the finding recorded and not otherwise.

6. So far the point of jurisdiction of Respondent No. 2 is concerned, counsel for the Respondents could not point out any other provisions whereby, in a case where the claim of a workman is contested, the Deputy Labour Commissioner can also decide himself, without proper adjudication by the Presiding Officer of the Labour Court.

7. In the background of the facts, stated above, in my view, the impugned order can not sustain and is, therefore, quashed. But however, since the claim in this case is for compensation due to injury, I remit the matter back before the same authority to take a fresh decision in accordance with the observation, made above. But in the circumstances of the case, there shall be no order as to costs.

8. I have been informed that as per the order of this Court dated 11.5.1990, Petitioners have already deposited the cost of Rs. 500/- (rupees five hundred). Therefore, the registry will permit the heirs of late Shiv Nandan Singh (Respondents No. 3(a) to 3(f) to withdraw such amount.