

(2022) 03 RAJ CK 0079

In the Rajasthan High Court

Case No : S.B. Civil Miscellaneous Appeal No. 2174 Of 2017

Reliance General Insurance Company Ltd

APPELLANT

Vs

Hura And Others

RESPONDENT

Date of Decision : 05-03-2022

Acts Referred:

Workmen Compensation Act, 1923 — Section 10, 30

Citation : (2022) 03 RAJ CK 0079

Hon'ble Judges : Anoop Kumar Dhand, J

Bench : Single Bench

Advocate : Virendra Agarwal, Kapil Sharma

Final Decision : Dismissed

Judgement

Anoop Kumar Dhand, J

Invoking the jurisdiction of this Court contained under Section 30 of the Workmen Compensation Act, 1923 (for short 'the Act of 1923'), the appellant-Insurance Company has filed this appeal against the judgment and award dated 27.03.2017 passed by the Court of Employees Compensation Commissioner, Bharatpur (for short 'the learned Commissioner') in claim case No. E.C.A.(F)/D-24/2011, by which the claim petition filed by the respondents-claimants has been allowed and the appellant-

Insurance Company has been directed to pay a compensation of Rs. 8,67,640/- with interest.

Skeleton facts of the case are that the claimants-respondents filed a claim petition before the learned Commissioner under the provisions of Act of 1923 claiming compensation on account of death of Maksood who died on 01.02.2011 during the course of employment of respondent No.5 while working as a driver of Truck bearing No. RJ-14-GC-7005. It was pleaded in the claim petition that at the time of accident, the age of the deceased was 24 years and he was drawing a salary of Rs. 8,000/- per month.

In spite of service of notice, the owner of the vehicle did not appear before the learned Commissioner, hence ex-parte proceedings were initiated against her.

The appellant - Insurance Company submitted its reply and denied the averments made in the claim petition and took an objection that no notice under Section 10 of the Act of 1923 was served upon the Insurance Company and took a specific objection that the deceased was murdered, hence the provisions of the Act of 1923 are not attracted. An objection was also taken by the Insurance Company that the deceased was not possessing a valid driving license, hence the Insurance Company is not liable to pay any amount of compensation to the claimants-respondents and prayed for rejection of the claim.

After hearing the parties, the learned Commissioner allowed the claim petition vide impugned award dated 27.03.2017 and directed the Insurance Company to pay a compensation of Rs. 8,67,640/- along with interest.

Feeling aggrieved and dissatisfied with the impugned judgment and award, the Insurance Company has submitted this appeal on this ground that no notice under Section 10 of the Act of 1923 was given and in fact the deceased was murdered and he was not possessing a valid driving license to ply the vehicle. Lastly, counsel for the appellant submitted that perverse findings have been recorded by the learned Commissioner while deciding the issues.

Per contra, learned counsel for the claimants-respondents opposed the arguments raised by the counsel for the appellant.

Heard learned counsel for the appellant as well as counsel for the claimants-respondents and perused the impugned judgment and the documents available on the record.

In the considered opinion of this Court, the findings given by the learned Commissioner are based on sound appreciation of the evidence and the same are not liable to be disturbed by this Court as no substantial question of law is involved in this appeal. Their Lordships of Hon'ble Apex Court in the case of "North East Karnatka Transport Corporation Vs. Smt. Sujatha" reported in 2019 (11) SCC 514 has held that the appeal filed against the award passed by the learned Commissioner is not maintainable if any question of law is not involved, similarly, their Lordships of Hon'ble Apex Court has held in the case of Golla Rajanna Etc. vs. The Divisional Manager And Anr." reported in 2017(1) SCC 45 that under the scheme of the Act of 1923, the learned Commissioner is the last authority on facts and the High Court has very limited jurisdiction under Section 30 of the Act of 1923 and it has no jurisdiction to re-appreciate the evidence recorded on its own finding.

Thus, in view of this discussion made hereinabove, no substantial question of law is found to be involved in the present appeal.

Hence, this appeal filed by the appellant-Insurance Company stands dismissed.

Stay application and all pending application(s), if any, also stand dismissed.

No order as to cost.

Record of the case be sent back forthwith.