
(2014) 09 RAJ CK 0053
In the Rajasthan High Court
Case No : Civil Misc. Appeal No. 1422/2005

Sundaram

APPELLANT

Vs

Pappu

RESPONDENT

Date of Decision : 16-09-2014

Acts Referred:

Employees Compensation Act, 1923 — Section 12

Citation : (2014) 4 WLN 222

Hon'ble Judges : Alok Sharma, J

Bench : Single Bench

Advocate : Akash Agarwal and Sanjay Singhal, Advocate for the Appellant;
Anurag Agarwal, Advocate for the Respondent

Judgement

Alok Sharma, J.—A challenge has been made to the order dt. 25.11.2004, passed by the Workman Compensation Commissioner, Jaipur District, Jaipur (hereinafter "the Commissioner") to the extent that the khatedar of the land, over which the bore well was being dug, one Jodharam has not been held liable to pay compensation found due along with the contractor one Pappu for the death of one Pradeep @ Pradhan Singh. The facts of the case are that on 02.11.1995 the deceased Pradeep @ Pradhan Singh was working under the control of Pappu and hence as his employee in the course of digging of a bore well in the agricultural fields of one Jodharam. During the course of execution of aforesaid work, Pradeep @ Pradhan Singh sustained grievous injuries and died on the spot. In these circumstances, the dependants of deceased Pradeep @ Pradhan Singh being his parents and his brother and sister aged between 29 years and 18 years filed a claim for compensation under the Employees Compensation Act, 1923 (hereinafter "the Act of 1923"). The Commissioner found the contractor Pappu liable to pay compensation but absolved the khatedar of the land Jodharam.

2. Counsel for the appellants has submitted that absolution of Jodharam from any liability under the Act of 1923 was in the face of Section 12 of the Act

inasmuch as Jodharam ought to have been held to be the principal employer in view of the fact that the bore well was being dug on his agricultural fields. Therefore aside of Pappu, the immediate employer of the deceased Pradeep @ Pradhan Singh, Jodharam also ought to have been held to be liable for payment of compensation.

3. I have heard the counsel for the appellants and perused the impugned order dt. 25.11.2004, passed by the learned Commissioner.

4. In my considered opinion, the submission of the counsel for the appellants is without merit. Section 12 of the Act of 1923 makes the person who engages a contractor, liable as the principal employer for the death of an employee of such contractor only in the event the work under execution is in the course of trade and business of the person who engaged the contractor. In the instant case there is specific finding of fact by the Commissioner that the work of digging of bore well in the agricultural fields of Jodharam was not in the nature of Jodharam's trade or business. Consequently, Section 12 of the Act of 1923 was wholly inapplicable for visiting Jodharam with liability as a principal employer of the deceased Pradeep @ Pradhan Singh. In my considered opinion, in view of the clear language of Section 12 of the Act of 1923 and the facts on record that bore well was being dug by the contractor Pappu in whose employment the deceased Pradeep @ Pradhan Singh was, Jodharam the khatedar of the land could not be held to be principal employer as the digging of the bore well was not in the course of his trade and business. Consequently, I find no perversity or illegality in the impugned order dt. 25.11.2004, passed by the Commissioner. The civil misc. appeal is without force.

Dismissed.