

**Chunar Devi Vs. Ms Central Coalfields Limited and Ors**

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**Court :** Jharkhand

**Decided On :** Jul-19-2016

**Appellant :** Chunar Devi

**Respondent :** Ms Central Coalfields Limited and Ors

**Advocate for Def. :** Mr. A. K. Das, Mr. G.C. Jha

**Advocate for Pet/Ap. :** Mr. A. K. Sahani

**Judgement :**

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 8034 of 2012  
Chunar Devi, widow of Late Chhatu Mahto, resident of Village & P.O.-Tirla, P.S.-  
Mahuatand District-Bokaro. .... Petitioner Versus 1. M/s Central Coalfields Limited;  
a Subsidiary of Coal India Limited having its registered Office at Darbhanga  
House, Ranchi, P.O.-Ranchi, P.S.-Kotwali, District-Ranchi through its Chairman-  
cum-Managing Director.

2. Director (P & IR) M/s Central Coalfields Limited; Darbhanga House, Ranchi,  
P.O.-Ranchi, P.S.-Kotwali, District-Ranchi. 3.Project Officer, Sirka Colliery M/s  
Central Coalfields Limited; P.O. & P.S. Argadda, District-Ramgarh. 4.Personnel  
Manager, Sirka Colliery M/s Central Coalfields Limited; P.O. & P.S. Argadda,  
District-Ramgarh.

5. Senior Branch Manager, Oriental Insurance Company Limited, Kutchery Road,  
P.O. Ranchi P.S. Kotwali, District-Ranchi. ... Respondents --- CORAM : HON'BLE

MR. JUSTICE PRAMATH PATNAIK --- For the Petitioner : M/s A. K. Sahani & Ajit Kumar, Advocates For the Respondent-CCL : Mr. Amit Kr. Das, Advocate For the Respondent-OIC : Mr. G.C. Jha, Advocate ----- CAV on 07.04.2016 Pronounced on 19 /07/ 2016 Per Pramath Patnaik, J.

In the instant writ application, the petitioner has challenged the legality and propriety of the letter dated 08.06.2006 (Annexure-5) whereby the claim of the petitioner for group insurance on account of death of her husband has been rejected and for issuance of writ of mandamus commanding upon the respondents to pay the amount of group insurance with interest @ 18% per annum.

2. The brief facts as disclosed in the writ application is that the husband of the petitioner namely Chhatu Mahto was an employee under the respondents and he was working as Wagon Loader. But unfortunately due to ill-luck the husband of the petitioner died in harness on 22.12.2002. Soon after the said demise, the matter was intimated to the local Police Station and 2 a copy thereof was given to the Project Officer, Sirka Colliery. Thereafter, the petitioner approached the respondent authorities for payment of death-cum- retiral benefits and accordingly she has been paid all the dues save and except the amount towards group insurance and family pension. On 06.01.2004, the petitioner submitted a detailed representation before the Project Officer, Sirka Colliery and the same was duly forwarded to the concerned officers of the respondents. On 08.06.2006 the respondents declined to entertain the case of the petitioner by passing the impugned order vide Annexure-5 to the writ application. The ground of rejection by the respondents was two fold, firstly no First Information Report was lodged and secondly no post mortem was conducted on the deceased. Being aggrieved and dissatisfied with the action on the part of the respondents in passing the impugned order on highly technical grounds, the writ petition has been filed by the petitioner under Article 226 of the Constitution of India for redressal of her grievances.

3. Mr. A. K. Sahani, learned counsel for the petitioner has strenuously urged that grounds as mentioned in the impugned order appears to be totally absurd and misconceived because of the fact that all the steps i.e. lodging of First Information Report, conducting post mortem etc. were to be taken by the concerned

authorities since the husband of the petitioner died during the course of his employment in working hours and his body was sent to the Management's Hospital at Gandhi Nagar itself where he was declared dead. Learned counsel for the petitioner further submits that so far as first information report is concerned from Annexure-3 it is quite apparent that the Senior Security Officer had already intimated to the police about the death of the deceased employee and it was the duty of the respondent authorities to lodge first information report and there is no fault on the part of the 3 petitioner. Learned counsel for the petitioner further submits that the action on the part of the respondents in passing the impugned order on highly technical ground amounts to whimsical and malafide exercise of power.

4. Per-contra a counter-affidavit has been filed on behalf of the respondents traversing the contentious issues raised in the writ application. Mr. A. K. Das, learned counsel for the respondents-CCL submitted that the petitioner submitted representation for Group Personnel Accidental Insurance Scheme claim on 09.05.2003 and on receipt of same, the management has forwarded to Oriental Insurance Company Limited for needful. Thereafter, the respondents-CCL further vide letter dated 18.02.2005 forwarded certain more information of the deceased employee to the Oriental Insurance Company Limited for settlement of petitioner's claim. Further it has been submitted that upon requirement sought for by the OICL, the information of accident in Form IV-A in respect of deceased employee under the Mine Regulation Was forwarded to OICL by a letter dated 24.03.2005. The report in Form IV A substantiates that the employee died in a Mine accident as per Annexure-D to the counter-affidavit. However, the OICL by letter dated 28.09.2005 repudiated the claim on the ground that in the instant case, no FIR was lodged and also no post mortem was done as evident from Annexure-E to the counter-affidavit. However, the OICL further by letter dated 17.03.2006 rejected to entertain the claim on the following grounds: (a) The deceased late Chhatu Mahto was in a drunken at the time of accident as confirmed by Form IV-B which suggests that had the person been careful not in drunken state, the accident could have averted. (b) No FIR was lodged with the police Station concerned which is mandatory in a case of accidental death. 4 (c) No postmortem was performed on the body of the deceased which again is mandatory for accidental death. The letter

dated 17.03.2006 has been marked vide Annexure-I to the counter- affidavit. Thereafter the petitioner has further represented to reconsider which is forwarded to the OICL by a letter dated 22.11.2006 as per Annexure-K to the counter- affidavit.

5. Mr. G.C. Jha, learned counsel for the respondent no.5 has reiterated the submissions made in the counter-affidavit. He has submitted that the C.C.L signed with the OICL in connection with a group personal Accident Insurance Scheme (G.P.A.I.S) for the executive and non-executive employee of CCL dated 15.02.2002 for a period. Clause-6 of the said M.O.U deals with the exclusion clause. The clause 6(b) clearly exclude the Death of disablement arising out of following excluded- while under the influence of alcoholic drink or drugs and the copy of the memorandum dated 15.02.2002 has been annexed as Annexure-E to the counter-affidavit. Learned counsel for the respondents has submitted that the oriental insurance company has rightly rejected the claim for non-submission on F.I.R., P.M. report and based on the contents of Form IV-A submitted with D.G.M.S., Ranchi region.

6. After hearing the learned counsel for the respective parties and having bestowed my anxious consideration to the rivalized submissions and on perusal of the documents on records, I am of the considered view that the case of the petitioner needs fresh consideration by the respondents. During course of hearing, it has been brought to notice of this Court that the decisions rendered in W.P.(S) No.5950 of 2008 in the case of Shabbir Hussai Vs. Central Coalfield Limited through its Chief Managing Director & Ors. was disposed of by this High Court vide order dated 19.06.2012 wherein the 5 learned Single Judge of this Court quoted the observations in the case of Abulash Devi Vs. The Central Coalfields Ltd. & Ors in W.P.(S) No.2517 of 2008 which is quoted as under:- Since the employee had deposited contribution with the employer, it is the duty of the employer to pay the group insurance amount to the employee. If the Insurance Co. denies anything contrary to the terms, the Central Coalfields Ltd. has to deal with them and take appropriate step. In view of the above, the respondents are directed to pay the due amount of group insurance to the petitioner with statutory interest from the date it was payable till the date of payment within four weeks from the

date of receipt/production of a copy of this order. If the said amount is not paid within the period aforesaid the petitioner shall be entitled to get additional compensatory interest @ 10% per annum from the date the amount was payable till the date of final payment. I respectfully agree with the view expressed by the learned Single Judge of this Court in the case of Abulash Devi (Supra).

7. In view of the discussion made hereinabove the present writ petition is allowed and the respondents are directed to reconsider the matter afresh for payment of the insurance compensation and on recommendation of same, if it appears the grievance of petitioner to be genuine and petitioner is entitled to legally admissible compensation, same shall be paid within a period of 12 weeks from the date of receipt of a copy of this order. If the said amount is not paid within the aforesaid period, the respondents shall pay interest @ 12% per annum.

8. With the aforesaid observations and directions, the writ petition stands disposed of. (Pramath Patnaik, J.) RKM/- N.A.F.R.

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