

Tarachand Sachdeva Vs. the Deputy Labour Commissioner-cum-Workmen's Compensation Commissioner and Ors.

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Court : Jharkhand

Decided On : Mar-29-2010

Judge : M.Y. Eqbal and; Pradeep Kumar, JJ.

Appellant : Tarachand Sachdeva

Respondent : The Deputy Labour Commissioner-cum-Workmen's Compensation Commissioner and Ors.

Advocate for Pet/Ap. : Mr. Rejendra Prasad

Disposition : Appeal dismissed

Judgement :

M.Y. Eqbal, J.

1. Heard Mr. Rajendra Prasad, learned Counsel appearing for the appellant. No one appears on behalf of the respondents inspite of service of notice.

2. This appeal is directed against the judgment and award dated 4.3.1998 passed by Presiding Officer, Labour Court, Hazaribagh in W.C. Case No. 21 of 1993 whereby a sum of Rs. 72,441/- has been awarded to the claimant/respondents for the death of one Jhubar Mahto in the mines area in course of employment.

3. The relevant facts in brief are that the claimant/ respondents filed application before the Commissioner, Workmen's Compensation alleging inter alia that on 7.2.1985 deceased Jhubar Mahto while working in the Open Mines owned by the appellant died because of fall of heavy stone of ten(10) tones. A criminal case was also instituted under Section 304A and 34 I.P.C. It appears that in the criminal case, the accused persons were finally acquitted by the trial Court in terms of judgment dated 1.7.92, thereafter, widow of the deceased filed an application in the aforementioned claim case along-with petition for condonation of delay. The said claim case was contested by the appellant denying that the deceased was not the employee in the mines rather he himself, of his own went to the mines premises for collecting sand and sustained injury because of the fall of heavy stone weighting 10 tones. The Commissioner, after considering the facts and circumstances brought on record came to the conclusion that the deceased was working in the mines and the accident took place while the deceased was on duty.

4. Mr. Rejendra Prasad, learned Counsel for the appellant assailed the order mainly on the ground that the claim case was filed after 10 years from the date of accident and the Commissioner condoned the delay without giving opportunity of hearing to the appellant Learned Counsel further submitted that in the criminal case, appellant was acquitted on the ground that relationship of employer and employee was not proved.

5. So far judgment of acquittal is concerned, from perusal of it, we found that the judgment of acquittal was passed on the ground that the prosecution failed to prove beyond all reasonable doubts that the offence committed by the accused persons. The criminal Court has not recorded a conclusive finding that the deceased was not the employee and was working in the mines. In our view, therefore, the judgment of criminal Court will not in any way prejudice the case of the claimant

6. So far, delay in filing the claim case is concerned, certainly the Commissioner has committed error in condoning the delay without giving notice of hearing to the appellant But if the award is set aside on that ground, that will cause serious hardship on the part of the claimant, inasmuch as the accident took place in the

year 1985 but the compensation has not been paid to the claimant till date.

7. For the reasons aforesaid, we do not find any merit in this appeal, which is, accordingly, dismissed. However, it is made clear that the claimants/respondents shall be entitled for the compensation awarded by the Commissioner. The claimants/respondents shall not be entitled to any further interest on the compensation amount. It is also made clear that dismissal of this appeal will not be treated as precedent in other case.

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