

Supreme Court - Daily Orders

Smt. Tebha Bai vs Raj Kumar Keshwani on 9 July, 2018

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6214 OF 2018
(Arising out of S.L.P.(c) No. 23559 of 2017)

Smt. Tebha Bai & Ors.

.Appellant(s)

VERSUS

Raj Kumar Keshwani & Ors.

.Respondent(s)

J U D G M E N T Abhay Manohar Sapre, J.

1. Leave granted.

2. This appeal is directed against the final judgment and order dated 18.04.2016 passed by the High Court of Chhattisgarh, Bilaspur in Misc. Appeal No.691 of 2015 by which the Division Bench Signature Not Verified of the High Court dismissed the appeal filed by the Digitally signed by SUSHIL KUMAR appellants and affirmed the order dated 29.11.2011 RAKHEJA Date: 2018.07.11 16:36:31 IST Reason:

passed by the Commissioner for Workmen Compensation, Labour Court, Raipur in Case No.217/WC Act/05 FATAL whereby the claim of the appellants herein was rejected inter alia on the ground that the deceased was not in the employment of respondent No.1 and that he did not die in an accident while he was on duty.

3. The appeal involves a short question. However, in order to appreciate the same, few relevant facts need to be mentioned hereinbelow.

4. One Shankar Pradhan (husband of Smt. Tebha Bai □ appellant No.1) was in the employment of Late Mangu Ram Keshwani □ father of respondent Nos.1 □ 3 as his driver. He used to drive a Truck bearing No.CIR 8214, which was registered in the name of Mangu Ram Keshwani. The Truck was insured with the United India Insurance Company (respondent No. 4 herein) at the relevant time.

5. On 26.06.1989, Shankar Pradhan while driving the said Truck from Raipur to Nagpur met with an accident and died on the spot. The deceased was aged 50 years and was earning around Rs.2000/- by way of monthly salary.

6. Appellant No. 1 is wife of the deceased whereas appellant No. 2 is deceaseds daughter and appellant No. 3 is deceaseds son. The appellants being the legal representatives of the deceased filed a claim petition (156/1989) under Section 166 of the Motor Vehicle Act before MACT, Bhandara (Maharashtra) on 22.12.1989 seeking compensation for the death of their bread earner—Shankar Pradhan. Respondent No.4—Insurance Company was arrayed as one of the non-applicants in the claim petition. The appellants prosecuted their claim petition till 02.07.2005 and thereafter, as advised, they withdrew the claim petition on 02.07.2005 with liberty to file an application before the Commissioner, Workman Compensation at Raipur (CH) under the Workman Compensation Act for claiming compensation against the respondents. This liberty was accordingly granted to them.

7. The appellants accordingly filed an application (Case No.217/WC Act/05 FATAL) before the Commissioner, Workman Compensation, Labour Court, Raipur against the respondents and claimed compensation for the death of Shankar Pradhan. It was inter alia alleged that the deceased was in the employment of father of respondent Nos.1— as driver, that the deceased used to get Rs.2000/- by way of monthly salary from the father of respondent Nos.1—, that the deceased while driving the offending Truck met with an accident on 26.06.1989 and died in the said accident, that the offending truck on the date of accident was insured with the Insurance Company (respondent No.4) and, therefore, the respondents are jointly and severally liable to pay the compensation to the appellants keeping in view the provisions of the Workmen Compensation Act.

8. The respondents filed their separate written statements. They denied the entire claim of the appellants contending inter alia that the deceased was not in the employment of father of respondent Nos.1—, that the deceased was neither involved in the accident and nor died in the said accident and that the application is barred by limitation.

9. Parties adduced their evidence. By award dated 29.11.2011, the Commissioner dismissed the application filed by the appellants by upholding the objections raised by the respondents.

10. The appellants felt aggrieved filed an appeal before the High Court. By impugned judgment, the High Court dismissed the appeal in limine giving rise to filing of the present appeal by way of special leave by the legal representatives of the deceased named above.

11. Heard learned counsel for the parties.

12. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to allow the appeal and award reasonable compensation to the appellants as indicated hereinbelow.

13. We have perused the evidence adduced the parties. In our view, the sworn testimony of appellant No.1 wife of the deceased that her husband was in the employment of Late Mangu Ram Keshwani father of respondent Nos.1,3, that he was being paid a monthly salary of Rs.2000/- per month and that he died while driving the offending vehicle deserves to be accepted as in our opinion there is neither any contradiction in her examination in chief or in her cross examination. Her evidence is throughout consistent. We also find that the Policy (Ex.P) issued by the Insurance Company (respondent No. 4) was in force at the time of accident.

14. Indeed, in our view, there is no reason as to why the appellants would file a case on false grounds. The appellants having lost their bread earner at the time when appellant Nos. 2 and 3 were minors and for compensation they had to run from pillar to post.

15. It is now almost 29 years that the appellants are still fighting to get some reasonable compensation for the death of their bread earner.

16. We have taken into account all the facts and circumstances arising in the case. In our view, it would be just and proper and in the interest of justice to award a lump sum of Rs.1 Lakh (Rs. 1,00,000/-) to the appellants payable by the respondents jointly and severally.

17. The appeal is accordingly allowed. The impugned judgment is set aside. The application filed by the appellants before the Commissioner, Workmen Compensation is allowed in part as indicated above.

18. Respondent No. 4 Insurance Company will pay the awarded sum Rs.1 Lakh (Rs. 1,00,000/-) to appellant No.1 after proper verification within three months from today before the Commissioner of Workman Compensation, Raipur.

19. Failure to pay Rs.1 Lakh to appellant No.1 within the time fixed will carry interest at the rate of 9% p.a. payable from the date of application.

20. Cost of the litigation is fixed as Rs.10,000/- to be payable by the Insurance Company to the appellants along with the awarded sum.

.....J. [ABHAY MANOHAR SAPRE]
[UDAY UMESH LALIT] New Delhi;

.....J.

July 09, 2018 ITEM NO.57 COURT NO.10 SECTION IV-A S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS Petition(s) for Special Leave to Appeal (C) No(s). 23559/2017
(Arising out of impugned final judgment and order dated 18-04-2016 in MISCA No.691/2015 passed
by the High Court of Chhatisgarh at Bilaspur) SMT. TEBHA BAI & ORS. Petitioner(s) VERSUS RAJ
KUMAR KESHWANI & ORS. Respondent(s) Date : 09-07-2018 This petition was called on for
hearing today. CORAM :

HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE HON'BLE MR. JUSTICE UDAY UMESH
LALIT For Petitioner(s) Mr.Kaustubh Shukla, AOR Mr.Ankur Kashyap, Adv.

Mr.Konark Tyagi, Adv.

Mr.Deepayan Mandal, Adv.

Mr.Rahul Shyam Bhandari, Adv.

Mr.Abhay Singh, Adv.

For Respondent(s) Mr.Anand Shankar Jha, AOR Mr.Mohd Ali, Adv.

Mr.Arpit Gupta, Adv.

Mr.Rajesh Kumar Gupta, AOR UPON hearing the counsel the Court made the following O R D E R
Leave granted.

The appeal is allowed in terms of the signed Non-reportable Judgment.

Pending applications, if any, stand disposed of.

(Ashok Raj Singh)
Court Master

(Chander Bala)
Court Master

(Signed Non-reportable Judgment is placed in the file)