

IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT DHARWAD

DATED THIS THE 11TH DAY OF DECEMBER 2012

BEFORE

THE HON'BLE MR. JUSTICE K. SREEDHAR RAO

AND

THE HON'BLE MR. JUSTICE V. SURI APPA RAO

M.F.A. NO. 10846/2007 (WC)

Between:

1. The Superintendent Engineer,
Maharashtra State Electricity Board,
Sangli, Dist. Sangli, Maharashtra State.
2. The Executive Engineer,
Maharashtra State Electricity Board,
At Post: Jath, Dist. Sangli,
Maharashtra State.

... Appellants

(By Sri. D. Ravikumar Gokakakar, Advocate)

And

1. Smt. Chaturabhai Bhaiyyasaheb @
Bhaiso Kolekar, age: Major.
2. Kumari Kanchana Bhaiyyasaheb @
Bhaiso Kolekar, age: Major.
3. Kumar Ramesh Bhaiyyasaheb @
Bhaiso Kolekar, age: Major.
4. Kumari Sonali Bhaiyyasaheb @
Bhaiso Kolekar, Age: Major.
5. Kumar Tukaram Bhaiyyasaheb @
Bhaiso Kolekar, Age: Major.

6. Sri Abbasaheb @ Abbaso
Davalu Kolekar, age: Major.
7. Smt. Laxmibai Abbasaheb @
Abbaso Kolekar, age: Major.
8. Sri Bajirao Sakharam
Kolekar, age: Major.

Respondent nos. 1 to 8 are r/o Rampur,
Tal.: Jath, Dist. Sangli, Maharashtra.

... Respondents

(By Sri Jagadish Patil, Advocate for R1 to R7,
Sri R.S. Herekar, Advocate for R8)

This appeal is filed under Section 30(1) of W.C. Act against the judgment dated 27.06.2007 passed in Kapaka:SR:22:2007 on the file of the Labour Officer & Commissioner for Workmen Compensation, Sub-Division-1, Belgaum, ad etc.

This appeal coming up for admission this day, **K.Sreedhar Rao J.**, delivered the following judgment.

JUDGMENT

One Bhaiyyasaheb Kolekar @ Bhaiso Kolekar, a lineman died on account of electrocution while executing the electrical work. At that time, he was working under Respondent No.8. The wife, children and mother of the deceased have filed a petition for compensation under the Workmen's Compensation Act before the Workmen's Commissioner, Belgaum. The appellants who are the respondents in the proceedings took up objection that the deceased died at Jath in

Sangli District of Maharashtra. The claimants are all residents of Jath, which is in the District of Sangle, cannot file a claim petition before the W.C. Commissioner, Belgaum. It is further contended that the Respondent No.8 has not engaged the deceased. Therefore, there is no relationship of employer and the workman between the respondent no.8 and the deceased.

2. The W.C. Commissioner overruled the objections and assessed the income of the deceased at Rs.4,000/- p.m., deducted 50% of it and awarded a sum of Rs.4,07,700/-. The respondent before the Commissioner aggrieved by the order, has filed this appeal.

3. The following are the substantial questions of law:

- 1) Whether the W.C. Commissioner at Belgaum in the State of Karnataka has jurisdiction to entertain the claim petition?
- 2) Whether there was relationship of employer and the workman between the respondent no.8 and the deceased in order to attract the provisions of the W.C. Act?
- 3) Whether the compensation awarded is sound and proper?

4. The appellant has produced the deposition of 1st claimant recorded in the related Sessions Case S.C. No.80/2006 on the file of Sessions Judge, Sangli, which is recorded on 20.09.2006. In the said deposition, the residence of the 1st claimant is shown as Rampur Village, Jeth Taluk, Sangli District. In view of the said material, it cannot be said that the Certificate issued by Gram Panchayath is also produced to show that the claimants are residents of Rampur Village, Jeth Taluk. Therefore, the claimants not being residents of the District of Belgaum and the accident not taking place in the district of Belgaum, the Registered Office of the appellant, not being in the District of Belgaum, the claimants could not have filed the claim petition for compensation before the W.C. Commissioner, Belgaum. The Certificate issued by the Head Master of School in Rampur shows that the 2nd claimant studied in the School at Rampur upto 7th Class at Adarsha Vidyalaya, Rampur. The School certificate issued on 05.04.2007. Therefore, the material produced by the appellant although disclose that the 1st claimant is resident of Jeth Taluk.

5. According to the deposition the 2nd claimant has studied in the School during the year 2004-05. The petitioners are basically illiterate, it cannot be said that they could not have shifted their residence to Jeth to

Athani. Therefore, they have no material cannot be a clinching material to hold that the claimants/petitioners are not residents of Athani. In the deposition recorded in the proceedings before the W.C. Commissioner, the 1st petitioner has claimed that she is resident of Athani Taluk and he would normally tell his birth place. In that view of the matter, it cannot be said that the W.C. Commissioner, Belgaum has no jurisdiction to entertain the petition.

6. With regard to the relationship of employer and workman, it is in the evidence that respondent No.8 is the licenced contractor under appellants and that the deceased was erecting Electricity service lines. The brother of Respondent No.8 was supervising the work and he was not an licensed contractor. Nonetheless, the brother of respondent No.8 was virtually working as an agent to execute the works on behalf of respondent No.8 and if deceased was employee under the brother of respondent No.8, it cannot be said that respondent No.8 is not his immediate employer. The works being carried out was for the benefit of the appellants. Therefore, the appellants cannot deny that he is not the principal employer. In that view of the matter, the 2nd question of law is held in favour of the claimants. The

compensation awarded is in accordance with the provisions of the Workmens' Compensation Act, does not call for interference or reduction.

7. In that view of the matter for want of territorial jurisdiction, the appeal is allowed. The respondents are permitted to represent the petition before the jurisdictional W.C. Commissioner for Jeth Taluk, Sangli District.

SD/-
JUDGE

SD/-
JUDGE

Bvv/Rbv