



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Miscellaneous Appeal No. 615/2007

The National Insurance Co. Ltd, through its Regional Manager,
Jaipur

----Appellant/Respondent

Versus

1. Smt Mohini Devi W/o Late Shri Gopi Ram, aged 40 years, R/o
Village Rajalia Tehsil Nava, District Nagaur

2. Miss Kamla D/o Late Gopi Ram, aged 10 years, through their
natural Guardian and mother Smt. Bhuri, R/o Village Rajalia
Tehsil Nava, District Nagaur

3. Richpal S/o Late Gopi Ram, aged 15 years, through their
natural Guardian and mother Smt. Bhuri, R/o Village Rajalia
Tehsil Nava, District Nagaur

4. Raju S/o Late Gopi Ram, aged 17 years, through their natural
Guardian and mother Smt. Bhuri, R/o Village Rajalia Tehsil Nava,
District Nagaur

5. Dalu W/o Late Shri Hukma Ram, aged 65 years, R/o Village
Rajalia Tehsil Nava, District Nagaur

-----Claimants/Respondents

6. Mangal Chand S/o Shri Shyolal Alia Shyonath, R/o 7,
Vijaypath, Murlipura Scheme, Jaipur presently R/o Ward No.4,
Jalpadi Road, Shrimadhapur, Distt. Sikar-owner

----Respondent

For Appellant(s) : Mr. Ram Singh Bhati through VC

For Respondent(s) : Mr. Bhanu Prakash Verma through VC

HON'BLE MR. JUSTICE ANOOP KUMAR DHAND

Judgment

12/01/2022

Reportable:

The present civil misc. appeal is directed against the
judgment and award dated 01.11.2006 passed by the Court of
Learned Commissioner Workmen's Compensation, District Jaipur,
Jaipur [for short 'the learned Commissioner'] in Case No. W.C.C.F.



4/04, by which the claim petition filed by the claimants-respondents has been allowed and the appellant-Insurance Company was directed to pay a compensation of Rs. 3,38,880/- with interest @ 12% per annum.

The issue involved in this appeal is that "whether appeal under Section 30 of the Workmen's Compensation Act, 1923 is maintainable without framing any substantial question of law?"

Brief facts of this case are that one Gopiram was employed with respondent No.6- Mangal Chand while he was working as a cleaner on 08.04.2003 on the truck bearing No. RJ-14-G-8726, he sustained injuries in discharge of his duties on 08.04.2003. Thereafter, he was admitted in S.M.S. Hospital, Jaipur where during the course of treatment he died on 14.04.2003. The claimants-respondents filed a claim petition before the learned Commissioner seeking compensation of Rs. 3,38,888/- with interest and penalty on account of loss suffered for the death of workman- Gopiram.

The respondent No.6-Mangal Chand, owner of the vehicle submitted his reply and admitted the fact of employment of the deceased with him and also admitted that the deceased was getting a monthly salary of Rs. 4,000/- and further stated that since the vehicle was insured with "The National Insurance Co. Ltd", hence, the Insurance Company is liable to make the payment of compensation.

The appellant-Insurance Company submitted its reply and denied the averments made in the claim petition and an objection was taken that no notice under Section 10 of the Workmen's Compensation Act, 1923 (for short 'the Act of 1923') was given



and it was also denied that the deceased was working under the employment of the vehicle owner- Mangal Chand.

By the judgment and award dated 01.11.2006, the learned Commissioner allowed the claim petition and awarded a compensation of Rs. 3,38,880/- with interest @ 12% per annum to the claimants-respondents.

Feeling aggrieved by the impugned judgment and award dated 01.11.2006 passed by the learned Commissioner, the appellant-Insurance Company preferred this appeal under Section 30 of the Act of 1923 without framing any substantial question of law in the memo of this appeal.

Learned counsel appearing for the appellant-Insurance Company argued that the deceased was not working under the employment of the vehicle owner, hence, the deceased was not a workman and the claimants are not entitled to get any amount of compensation.

Per contra, learned counsel appearing for the respondents-claimants argued that the present appeal filed under Section 30 of the Act of 1923 is not maintainable as no substantial question of law has been framed. Hence, the instant appeal is liable to be rejected only on this ground.

Heard learned counsel for the parties and perused the record.

Bare perusal of the proviso attached to Section 30 of the Act of 1923 indicates that no appeal shall lie against any order passed by the learned Commissioner unless a substantial question of law is involved in the appeal.

It is the settled principle of law that the question as to whether the employee met with an accident,



whether the accident occurred during the course of employment, whether it arose out of an employment, how and in what manner the accident occurred, who was negligent in causing the accident, whether there existed any relationship of employee and employer, what was the age and monthly salary of the employee, how many are the dependents of the deceased employee, the extent of disability caused to the employee due to injuries suffered in an accident, whether there was any insurance coverage obtained by the employer to cover the incident etc. are some of the material issues which arise for the just decision of the Commissioner in a claim petition when an employee suffers any bodily injury or dies during the course of his employment and he/his legal representatives sue his employer to claim compensation under this Act. The aforementioned questions are essentially the questions of fact and, therefore, they are required to be proved with the aid of evidence. Once they are proved either way, the findings recorded thereon are regarded as the findings of fact.

The appeal provided under Section 30 of the Act of 1923 to the High Court against the judgment and award passed by the Commissioner shall lie only against the specific orders set out in clause (a) to (e) of Section 30 of the Act of 1923 with a further rider contained in first proviso to the Section that the appeal must involve substantial question of law.

In other words, the appeal provided under Section 30 of the Act of 1923 to the High Court against the order of the Commissioner is not like a regular appeal akin to Section 96 of the Code of Civil Procedure, 1908 which can be heard both on facts and law. The appellate jurisdiction of the High Court to decide the



appeal is confined only to examine the substantial questions of law arising in the case.

Such appeal is then heard on the question of admission with a view to find out as to whether it involves any substantial question of law or not. Whether the appeal involves a substantial question of law or not, depends upon the facts of each case and needs an examination by the High Court. If the substantial question of law arises, the High Court would admit the appeal for final hearing on merit else would dismiss in limini with the reasons that it does not involve any substantial question/s of law.

It has been held by the Hon'ble Apex Court in the case of *Ramsakhi Devi Vs. Chhatra Devi*, reported in *JT 2005 (6) SC 167* that without formulating the substantial question of law, the appeal cannot be sustained.

The similar view has been taken by the Hon'ble Apex Court in the case of *Gollarajanna and Ors. Vs. The Divisional Manager & Ors.*, reported in *2017(1) SCC 45* and also in the case of *North East Karnataka Transport Corporation Vs. Sujatha*, reported in *2019(11) SCC 514* that the appeal filed against the award passed by the Workmen's Compensation Commissioner is not maintainable if any substantial question of law is not involved in the same.

Hence, in the considered opinion of this Court, an appeal under Section 30 of the Workmen's Compensation Act, 1923 is not maintainable in absence of framing any substantial question of law.

Now coming to the facts of this case, I find that this appeal has been filed by the appellant-Insurance Company without



framing any substantial question of law on the material issues in the memo of appeal.

Thus, in view of the matter and looking to the finding of facts recorded by the learned Commissioner, I do not find any ground to call for any interference on the factual findings recorded by the learned Commissioner. Since no substantial question of law has been formulated in the memo of appeal, hence, this appeal is not maintainable in view of the proviso attached to Section 30 of the Act of 1923.

In the result, the instant appeal as well as the stay application stand dismissed.

All the pending applications, if any, also stand dismissed.

(ANOOP KUMAR DHAND),J

Ritu/1

