



2025:CGHC:39248



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 677 of 2020

1 - The New India Assurance Company Limited Through Its Divisional Manager, Divisional Office, 1st Floor, Madina Building, Medical College Road, Kutchery Chowk, Raipur, District - Raipur Chhattisgarh. **... Appellant**

versus

1 - Smt. Vidya Mandle Wd/o - Late Nandu Mandle Aged About 30 Years R/o - Vill. Janjgira, P.O. - Madhi, Tah. - Tilda-Nevra, District - Raipur Chhattisgarh.

2 - Ku. Renuka Mandle D/o - Late Nandu Mandle Aged About 10 Years Minor - Through Their Mother - Smt. Vidya Mandle (Respondent No. 1), R/o - Vill. Janjgira, P.O. - Madhi, Tah. - Tilda, Nevra, District - Raipur Chhattisgarh.

3 - Lukky Mandle S/o - Late Nandu Mandle Aged About 8 Years Minor - Through Their Mother - Smt. Vidya Mandle (Respondent No. 1), R/o - Vill. Janjgira, P.O. - Madhi, Tah. - Tilda, Nevra, District - Raipur Chhattisgarh.

4 - Ku. Khusbu Mandle D/o - Late Nandu Mandle Aged About 4 Years Minor - Through Their Mother - Smt. Vidya Mandle (Respondent No. 1), R/o - Vill. Janjgira, P.O. - Madhi, Tah. - Tilda, Nevra, District - Raipur Chhattisgarh.

5 - Choubis Ram Mandle S/o - Late Bodhi Mandle Aged About 50 Years R/o - Vill. Janjgira, P.O. - Madhi, Tah. - Tilda, Nevra, District - Raipur Chhattisgarh.

6 - Vimla Mandle W/o Shri Choubis Ram Mandle Aged About 47 Years R/o - Vill. Janjgira, P.O. - Madhi, Tah. - Tilda, Nevra, District - Raipur Chhattisgarh.

7 - Balaji Force Security Pvt. Ltd. Branch Office Raipur Chhattisgarh. Hal Mukam - G.M.R., Raikheda, Tah. - Tilda-Nevra, District - Raipur Chhattisgarh. Through - Manager - Shri Ajay Singh, S/o - Shri Tej Bahadur Singh. **... Respondents**

(Cause title, as taken from CIS)

For Appellant	:	Mr. Dashrath Gupta, Advocate
For Respondents No.1 to 6	:	Mr. Rekhraj Baghel, Advocate
For Respondent No.7	:	None.



(Hon'ble Shri Justice Naresh Kumar Chandravanshi)

Order on Board

06/08/2025

1. The insurer has filed this appeal under Section 30 of the Employee's Compensation Act, 1923 (henceforth referred to as 'the Act, 1923') challenging the order and award dated 30.01.2020 passed by Commissioner, Employees Compensation -cum- Labour Court No.2, Raipur (CG) (for short 'the Commissioner') in Case No.13/E.C.Act/2015/fatal.

(For the sake of convenience, parties would be referred to as per their status shown before the trial Court.)

2. Facts of the case, in nutshell, are that respondents No.1 to 6/claimants filed an application under Section 22(1) of the Act, 1923 stating *inter alia* that claimants are wife/children/parents of Nandu Mandle, who was working as Security Guard for non-applicant No.1/respondent No.7 herein/Balaji Force Security Pvt. Ltd. On 03.07.2014, he was performing his duty at night. On 04.07.2014, because of ill health, he was admitted in Evangelical Mission Hospital, Raipur where he died on the same day at about 9.00 am. Therefore, claimants filed claim application.
3. Non-applicant No.1 (employer) has admitted that deceased Nandu Mandle was working as Security Guard with it and he died in the morning of 04.07.2014, but he died because of *Pneumonia & Septicaemia*. Though he had got insurance of his employee, who suffered with the accident during course of employment, but since cause of death of deceased was not attributed to his work, rather he died because of *Pneumonia & Septicaemia*, hence, claimants are not



entitled to get compensation. If they are found to get compensation, then non-applicant No.2 is liable for the same as non-applicant No.1 has got insured his employee for their any accidental injury or death during course of employment.

4. Non-applicant No.2/Appellant-Insurance Company also filed its reply stating *inter alia* that since cause of death of deceased was not attributable to any nexus between occupation of deceased and his death, rather he died because of *Pneumonia & Septicaemia*, therefore, claimants are not entitled to get any compensation. However, non-applicant No.1 had got insurance for his employee to any injury or death suffered by them during course of employment.
5. On the basis of pleading of both the parties, the Labour Court framed as many as eight issues, recorded evidence adduced by the parties and after considering the same, granted Rs.8,31,920/- as amount of compensation along with interest of @ 12% in favour of claimants fastening liability upon non-applicant No.2/appellant-Insurance Company for payment of compensation.
6. This appeal has been admitted for hearing on following substantial question of law:-

“Whether the finding of the Commissioner for Employee's Compensation fastening the liability upon the Appellant-Insurance Company when the employee -Nandu Mandle had died with a disease directly attributable to a specific injury caused by the accident, is perverse?”
7. Learned counsel for the appellant/Insurance Company would submit that it is not a case of claimants that deceased had suffered



from any injury during course of employment and because of that injury, he succumbed, rather as per the claimants themselves and medical report (Ex.D-3) filed by them, cause of death of deceased was *Pneumonia & Septicaemia*. There is no material on record attributable to any nexus between the occupation of the deceased and his death. Rather, deceased died because of aforesaid disease, which is nowhere connected with his employment, despite that, amount of compensation has been granted to the claimants fastening liability upon appellant-Insurance Company, which is perverse and illegal. In this regard he placed reliance in the case ***Shakuntala Chandrakant Shresthi vs. Prabhakar Maruti Garvali & Another*** reported in ***AIR 2007 SC 248***.

8. Learned counsel appearing for the respondents No.1 to 6/claimants supported the impugned award.
9. I have heard learned counsel for the parties and perused the material available on record.
10. The claimants have examined two witnesses namely; Vidya Mandle (AW-1), who is wife of deceased Nandu Mandle and Choubis Ram Mandle (AW-2), who is father of deceased. Non-applicant No.2 - Insurance Company has examined his Administrative Officer -Mahesh Kumar, who has exhibited insurance Policy (Ex.D-4), whereby non-applicant No.1/respondent No.7 herein has got insured his sixty employees.
11. In claim application, claimants have not specifically stated that what is the cause of death of deceased, rather, they have only averred that in the night of 03.07.2014, he performed his duty of Security Guard and in the morning of 04.07.2014, his health deteriorated and he was admitted in the Hospital, and at 9.00 am he died. As per Ex.D-3 i.e.



certificate issued by Evangelical Mission Hospital, Raipur, deceased was admitted in Hospital on 04.07.2014 with the diagnosis of *Pneumonia & Septicaemia* and he died at 9.00 am on the same date.

12. Postmortem of the dead body of deceased was not conducted as FIR was not lodged. But, Vidya Mandle (AW-1), who is wife of deceased, has specifically stated in her deposition that in the night of 03.07.2014, when deceased Nandu Mandle was on duty, at that time, he had got drenched in rain. She has further stated that deceased had informed aforesaid fact and he has also told that despite request, leave is not granted to him and because of drenching in rain, he fell sick. This fact also gets some support from deposition of Choubis Ram Mandle (AW-2), who is father of deceased. Suggestion has also been taken by learned counsel for non-applicants from Vidya Mandle (AW-1) that deceased had got drenched in rain while performing his duty. As per deposition of Vidya Mandle, her husband suffered from *Pneumonia & Septicaemia* because he had got drenched in rain. In para No.14 of cross-examination, she has specifically admitted suggestion taken by learned counsel for the non-applicant No.1 that - **“यह बात सही है कि पूरा भीग जाने के बाद मेरे पति को अस्पताल में ले गये थे मिशन अस्पताल में पाया गया कि मेरे पति को न्यूमोनिया और सेप्टीसिमिया हो गया है।”** Likewise, she has further deposed in para No.21 of her cross-examination that - **“मेरे पति कैसे भीग गये थे इसकी मैंने जानकारी ली तो मुझे पता चला कि जहां डियूटी करते थे वहां उनके सिर के उपर पानी से बचाव का कोई साधन नहीं था इसी कारण बारिश में डियूटी करते हुए भीग गये थे।”**

13. In instant case, postmortem of deceased was not carried out, as report was not made to the police. In this regard, Choubis Ram Mandle (AW-2) has specifically stated that agreement (Ex.P-3) was executed



between him and non-applicant No.1 (employer), wherein non-applicant No.1 had admitted to give Rs.3,00,000/- and further they were prevented from reporting the case. He and Vidya Mandle (AW-1) have also deposed that despite getting agreement (Ex.P-3), non-applicant No.1 has not given them Rs.3,00,000/- as was agreed. Deceased belongs to poor family strata and to serve his family, he was working as Security Guard. He died because of *Pneumonia & Septicaemia*, but from the evidence available on record, it is found that he suffered from aforesaid diseases because he was got drenched in rain while performing duty in the night of 03.07.2014, therefore, he fell sick. Even, as per deposition of Vidya Mandle (AW-1), because of aforesaid condition, despite seeking leave, he was not granted, hence, he suffered from *Pneumonia & Septicaemia* and succumbed.

14. Though postmortem of deceased has not been carried out, but it seems that non-applicant No.1 deceived Choubis Ram Mandle (father of deceased) by making agreement (Ex.P-3) and despite that agreement, neither non-applicant No.1 paid Rs.3,00,000/- to the claimants nor permitted them to lodge FIR. Therefore, despite the deceased not having undergone postmortem, deposition of his wife Vidya Mandle cannot be discarded that while performing duty in the night of 03.07.2014, because of rainy season deceased had got drenched in rain as there was no shelter/roof where he was performing duty, as such, his health deteriorated and despite seeking leave, he was not granted, therefore, he suffered from *Pneumonia & Septicaemia* and died at 9.00 am on 04.07.2014 from the said disease.

15. Having considered aforesaid evidence, particularly deposition of Vidya Mandle (AW-1) and further considering the fact that non-



applicant No.1 deceived claimants and they were also restrained from lodging FIR. Being poor person, claimants cannot be deprived from getting compensation because of gross mistake/negligence committed by non-applicant No.1 and GMR Plant, Raikhera, where deceased was performing duty as they got duty from deceased without providing him proper shelter to protect him from getting drenched in rainy season. Therefore, in view of above discussion, I do not find any infirmity or illegality in finding recorded by the Labour Court holding that deceased died because of *Pneumonia & Septicaemia* suffered to him during course of employment, as he developed aforesaid disease because he got drenched in rain while performing his duty, hence, there is direct nexus between the employment of deceased and cause of his death, therefore, case law relied upon by Appellant -Insurance Company ***Shakuntala Chandrakant Shresthi*** (supra) is not helpful to it in fact situation of the instant case. Accordingly, question of law is answered 'negative' i.e. in favour of the claimants and against the appellant/Insurance Company.

16. In view of above, I do not find any merit in the instant appeal, hence the same is **dismissed**. No orders as to cost(s).
17. Pending interlocutory application(s), if any, stands disposed of.
18. Record of the Labour Court be returned along with a copy of this Order.

Sd/-
(Naresh Kumar Chandravanshi)
JUDGE