

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal From Order No. 203 of 2014

Uttarakhand Power Corporation Ltd.Appellant

Versus

Smt. Bhagirathi Devi and anotherRespondents

Present:-

Mr. Tapan Singh, Advocate for the appellant.
Mr. I.P. Kohli, Standing Counsel for the State.
Mr. Himanshu Aswal, Advocate, holding brief of
Mr. Navnish Negi, Advocate for the respondent no.1.

Hon'ble Ravindra Maithani, J. (Oral)

Instant appeal is preferred under Section 30 of the Employees Compensation Act, 1923 ("the Act") against the judgment and order dated 14.03.2014, passed in Case Nol. 14 of 2013-14, Smt. Bhagirathi Devi Vs. Divisional Forest Officer, Rudraprayag Forest Range, Rudraprayag and another, by the Employees Compensation Commissioner/District Magistrate, Rudraprayag ("the case"). By it, the respondent no.1/the claimant has been awarded Rs.4,15,480/- as compensation on the death of her husband Dinesh Prasad Dimri.

2. The case is based on an application filed by the respondent no.1/the claimant seeking compensation on the death of her husband Dinesh Prasad Dimri. According to it, the deceased Dinesh Prasad Dimri was 48 years of age, who was working as Watchman in the Forest Guest House, Augustmuni, District Rudraprayag at a salary of Rs. 52,00/- per month. On 21.10.2012, at 12:00 in the noon, when the deceased went to check as to why water is not running on the taps, he fell on the ground and hit with an electricity pole, where the current was running through. The deceased died on the spot. With these averments compensation of Rs. 8 Lakhs was awarded. Objections were filed in the case. Issues

were also framed. Issue no.1 relates to as to whether on the date of accident, deceased was in the employment of the respondent no.2. On this issue the impugned judgment records that on the date of accident, the deceased was in the employment of the respondent no.2. Issue no. 2 relates to as to whether on 21.10.2012, the deceased Dinesh Prasad died at Forest Guest House, Augustmuni due to electrocution. This was also decided in the impugned judgment that the deceased died due to electrocution on 21.10.2012 in Forest Guest House, Augustmuni. Issue No.3 is with regard to the salary of the deceased and the Tribunal held that on the date of accident, the deceased was at a monthly salary of Rs.5200/-. Issue no.4 is with regard to the compensation as to what amount of compensation, the respondent no.1/ the claimant entitled to and from whom? The Commissioner recorded in the impugned judgment that the death of the deceased took place due to negligence of the Electricity Department. This is impugned.

3. Heard learned counsel for the parties and perused the record.

4. Initially, when the appeal was heard on 21.05.2014, the Court framed the following substantial question of law:-

“As to whether award can be passed under the Employees Compensation Act, 1923, against the person who is held to be not an employer of the deceased?”

5. Learned counsel for the appellant submits that the Act is for compensation to the workmen. The deceased was not an employee of the appellant. He was an employee of the respondent no.2 and this has been proved by the respondent no.1 in the case. Therefore, it is argued that the compensation ought to have been awarded against the respondent no.2/Divisional Forest Officer,

Rudraprayag under whose employment the deceased was working at the relevant time when he died.

6. Learned counsel for the respondent no.2 submits that the respondent no.2 may pay the amount, but they may be given right to recover it from the appellant because it is argued that the death took place due to running of electricity on the electric pole. It is argued that the appellant has admitted that the death took place due to electrocution.

7. The Employees Compensation Act, 1923 has been enacted so as to provide payment by certain classes of employers to their employees of compensation for injury and accident. It is unrelated to tort's liability under torts.

8. Admittedly, the deceased Dinesh Prasad Dimri was under the employment of the respondent no.2. He died during the course of employment. Liability for such compensation under the provisions of the Act cannot be fastened on any other person other than the employer.

9. The award under Employees Compensation Act, 1923 cannot be passed against a person, who is not employer of the deceased. Substantial question is answered accordingly.

10. Accordingly, in view of the above, impugned judgment and order requires interference to the extent that the compensation shall be paid by the respondent no.2 and not by the appellant. Accordingly, the appeal deserves to be allowed.

11. The appeal is allowed.

12. The amount of compensation alongwith interest shall be paid by the respondent no.2 to the respondent no.1/claimant. Let it be paid within next two months.

13. The impugned judgment and order is modified to the extent, as indicated above.

14. Learned counsel for the appellant submits that the amount deposited by the appellant may be refunded to the appellant.

15. Since, the appellant has not been found responsible to pay the amount of compensation, therefore, the amount deposited by the appellant shall be returned to them, provided the claimant has not withdrawn it.

(Ravindra Maithani, J.)
11.06.2026