

(1900) 01 MP CK 0010

MADHYA PRADESH HIGH COURT

Case No: 3285 of 2011

ZONAL MANAGER, UCO BANK

APPELLANT

Vs

GENERAL SECRETARY

RESPONDENT

Date of Decision: Jan. 1, 1900

Acts Referred:

- General Clauses Act, 1977, Section 27 -
- Code of Civil Procedure, 1908, - Order 5, Order 9 Rule 13, Order 43 Rule 1(d)

Hon'ble Judges: Anjuli Palo

Bench: Single Bench

Advocate: Anil Dwivedi, Manoj Chandurkar

Judgement

1. This appeal has been filed under Order 43 Rule 1(d) of Civil Procedure Code against the order dated 30.11.2010 passed by the Commissioner, Workmen's Compensation Court, Shahdol (MP) in in C.No. B-33/WCA/10.

2. The facts of the case in brief is that, the son of the respondents Rajesh Kumar was engaged with the appellants as labourer who died due to attack of a buffalo on 27.11.2002. The respondents filed an application for compensation under section 10 of the Workmen's Compensation Act before the Labour Court, Shahdol. In the aforesaid case, the Labour Court proceeded ex-parte and passed award in favour of the respondents on 23.01.2008. The respondents filed the execution case and notice has been issued to the appellants through which they came to know about the award. Thereafter the appellant filed application under Order 9 Rule 13 of CPC for setting the ex-parte judgement and award which was rejected by the Commissioner, Workmen's Compensation, Shahdol.

3. The appellants challenged the aforesaid order on the grounds that the Court

below failed to peruse and to consider the Section 27 of General Clauses Act and Order 5 of CPC. The ex-parte proceedings against the appellant is completely premature. Learned Labour Court has failed to observe the principle of natural justice. The impugned order has been passed without hearing of the appellants. Therefore the impugned order deserves to be set aside. The appellant further prays to remit the matter back to the learned Court below for fresh trial.

4. Learned counsel for the respondents vehemently opposed the contentions of the appellants.

5. Heard the arguments. Perused the record.

6. It cannot be said that the Labour Court committed error in holding the notice to be treated as served on the applicant. But in the interest of justice it is proper to give limited opportunity to the appellants to defend their case.

7. On the aforesaid ground, this appeal is allowed subject to payment of cost of Rs. 3,500/- to the respondents. Setting aside the order impugned, it is directed that the learned Labour Court, Shahdol after giving opportunity to the applicant to file written submission and after adducing evidence of both the parties dispose of the case, within four months of receipt of copy of this order, in accordance with law.

8. Accordingly, the appeal stands allowed and disposed of.