S.B. Civil Writ Petition No. 16066/2009
Kalu @ Aziz Mohammed
Versus
Shri Lal and another

Date of Order: **31.10.2011**

**HON'BLE MR. JUSTICE ALOK SHARMA**

Mr. Praveen Jain for the petitioner

This petition has been laid challengingt the order dated 22.20.1009 passed by the Commissioner, Workman Compensation, Tonk in WCC Case No. 17/99, whereby the application filed by the petitioner (respondent in the claim petition) for impleadment of the owner of the mines as a party in the claim petition has been dismissed.

Facts of the case are that a claim petition under the Workman Compensation Act came to be filed by the legal heirs of one deceased Ladu Lal against the petitioner, on the ground that deceased Ladu Lal was engaged as a driver on Tractor No. RJ-26 R 1038 and while so engaged, he died in the course of employment while discharging his duties.

In the said claim petition filed under the Workman Compensation Act, the petitioner who was impleaded as owner of the Tractor, moved an application to implead

one Ram Kumar Bheel, owner of the Mines.

The claimants opposed the application for impleadment of Ram Kumar Bheel on the ground that deceased Ladulal was engaged in the employment of Kalu, the owner of the Tractor No. RJ-26 R 1038 and had a master – servant relationship with Kalu. It is stated that Ladu Lal died in the course of his employment while discharging duties for Kalu and consequently the claim petition was correctly confined to impleading Kalu @ Aziz Mohammed, the owner of Tractor bearing No. RJ-26 R 1038. It was pointed out that in fact in the course of investigation by the police into the accident, Kalu @ Aziz Mohammed in response to the notice u/s 138 of the Motor Vehicles Act had admitted that he was the owner of the offending Tractor and deceased Ladulal was then engaged as driver thereof in his employment. It was stated that deceased Ladu Lal was never in the employment of Ram Kumar Bheel and had no connection whatsoever with him. Consequently, it was prayed that the application for impleadment of Ram Kumar Bheel moved by Kalu @ Aziz Mohammed be dismissed.

The Commissioner, Workmen Compensation vide

order dated 22.10.2009 noted the facts on record, more particularly, the admission of Kalu @ Aziz Mohammed in his reply to the notice u/s 138 of the Motor Vehicles Act which was annexed as Ex.7, that Ladu Lal was a driver on the tractor of which he was owner. The Tribunal further noted that the application for impleadment was filed belatedly and was completely meritless and, therefore, deserving dismissal.

I have heard the counsel and considered the order dated 22.10.2009 impugned in this petition. I find no error either of fact or law. In any event of the matter the claimant is the dominus litus and it is for him to chose as to against which party he seeks to litigate and seek relief. It is not for the respondent/non-claimant to derail the compensation proceedings by moving ill advised application under Order 1 Rule 10 CPC, or provisions analogous thereto, solely with the intention to delay the proceedings initiated under a social welfare legislation.

The writ petition is without any force and deservising dismissal. Dismissed as such.

**(Alok Sharma ), J.**

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