

General Manager Vs. Chickabora

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SooperKanoon Citation : sooperkanoon.com/378686

Court : Karnataka

Decided On : Jul-20-1990

Reported in : I(1991)ACC187; 1991ACJ395; ILR1990KAR2933

Judge : K.A. Swami and ;N.D.V. Bhat, JJ.

Appeal No. : M.F.A. No. 1345/1990

Appellant : General Manager

Respondent : Chickabora

Judgement :

ORDER

K.A. Swami, J.

1. This is an appeal preferred against the award passed by the Commissioner for Workmen's Compensation, Mandya, on June 13, 1990 in Case No. LOM/WCA/CR8/89-90 awarding certain amount of compensation to respondent-1. The appeal is preferred under Section 30 of the Workmen's Compensation Act, 1923 (hereinafter referred to as the 'Act').

2. The appellant has impleaded the Commissioner for Workmen's Compensation, Mandya (hereinafter referred to as the 'Commissioner') as respondent-2. The Officer has raised an objection that the Commissioner for Workmen's

Compensation, Mandya, is neither a necessary nor a proper party, therefore, he be deleted.

3. It is contended on behalf of the appellant that the Commissioner, apart from deciding the matter as a quasi-judicial authority, he also discharge several other functions under the provisions of the Act which will have a bearing on the satisfaction of the award; that in the event he disobeys the directions issued by this Court, it would become difficult to hold him liable for the act of disobedience to the order of this Court. It is also brought to our notice that in C.C.C. No. 132/1990 filed by the very appellant against the Commissioner for acting in disobedience to the order of this Court passed in M.F.A. No. 1912/1989, on November 6, 1989, the Contempt of Court Petition was dismissed holding that the Commissioner for Workmen's Compensation was not made a party either to the appeal or to the interlocutory application. Therefore, it is submitted that the Commissioner is at least a proper party 'if not a necessary party' to the appeal.

4. On principle, it is not possible to uphold the contention. The Commissioner for Workmen's Compensation decides the claim as a Tribunal. He performs the role of a Court. He exercises the powers of a Civil Court as Section 23 of the Act empowers him to exercise all the powers of a Civil Court for the purpose of recording evidence. He is also deemed to be a Civil Court for all the purpose of Section 195 and Chapter XXXV of the Code of Criminal Procedure. As a Judge or a Court cannot be party to the cause, inasmuch as there cannot be a lis between a Court and a party to the proceeding, the Commissioner does not become either a necessary or a proper party to the appeal unless allegations are made against the Commissioner in the appeal which require his presence before the Court to explain the same. For effective and a complete and final adjudication of the appeal, the presence of the Commissioner is not necessary because he has no personal right or interest in the subject matter of the appeal. He is also in no way interest or connected with the relief sought in the appeal against the respondents to the appeal. He has only decided the claim as any other Court or Tribunal does. Therefore, in the absence of any allegations made against him in the appeal, the Commissioner cannot even be held to become proper party to the appeal. Any order passed by the appeal preferred against the award passed in the appeal

preferred against the award passed by the Commissioner, whether he is a party to the appeal or not, he is bound to carry it out and comply with same as he - the Commissioner - becomes a Court subordinate to this Court and he is liable to carry out the directions or orders - Whether interim or final - passed in the appeal just as any other Court subordinate to this Court carries out. The fact that the Commissioner is not a party to the appeal does not in any way absolve him from the obligation to carry out the orders and directions. He is also not absolved from the liability for any act of his, commission or omission, amounting to disobedience to the order of this Court. If it is proved that he has wilfully acted in disobedience to the order, in spite of the fact that the order of this Court was brought to his notice he is liable to be dealt with for contempt of this Court.

5. In this appeal there are no allegations made against the petitioner. Thereafter, we are of the view that the Commissioner need not be made a party to this appeal. He cannot be held to be either a proper or a necessary party to the appeal. Hence the office objection is upheld. Respondent No. 2 be deleted.

6. A copy of this order be sent to the Commissioner for Workmen's Compensation, Mandya, as it is submitted that he has been arbitrarily executing the orders in spite of the interim orders passed by this Court. He shall note this for his future guidance.