

Prema Vs. Thangappan

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Court : Karnataka

Decided On : Nov-09-1996

Reported in : ILR1997KAR401; (1999)IIILLJ454Kant

Judge : M.B. Vishwanath, J.

Acts : Workmen's Compensation Act, 1923 - Sections 2(1); [Factories Act, 1948](#) - Sections 2

Appeal No. : MFA 1932/1991

Appellant : Prema

Respondent : Thangappan

Advocate for Pet/Ap. : K.S. Gowrishankar, Adv.

Disposition : Appeal allowed

Judgement :

M.B. Vishwanath, J.

1. Heard the Learned Counsel for the appellant.

2. It is seen from the order sheet dated 25.6.96 that the Advocate who was appearing for the respondent, after issuing Notice to the respondent, has prayed this Court's permission to retire. This Court has permitted the Counsel to retire.

3. It is further seen from the order sheet dated 25.6.96 that Court Notice was issued to the respondent. The respondent has been served with Court Notice and he has remained absent.

4. Appeal admitted.

5. In this appeal the appellant has challenged the order passed by the Commissioner for Workmen's Compensation, Kodagu District, Madikeri on 16.3.91 in No. Kaa.Na.Pa.Kaa.32/89-90. By the impugned order, the Commissioner rejected the appellant's prayer for compensation under the Workmen's Compensation Act.

5a. The Commissioner has held that the appellant was not a workman within the definition of Section 2(1)(n) of the Workmen's Compensation Act. The Commissioner, therefore, dismissed the claim of the appellant for compensation.

6. The appellant Prema claimed that he was a workman, working in the Saw Mill of the respondent Tangappan. On 9.6.89 when he was working in the Saw Mill of the respondent, sawing the log, his two fingers of the left hand were cut in the course of employment.

7. The Commissioner rejected the claim of appellant for compensation on the ground that the appellant was not a workman within the definition of Section 2(1)(n) of the Workmen's Compensation Act as has already been stated.

8. It is not in dispute that the claimant was an employee in the Saw Mill of the respondent. Section 2(1)(n) says that:

'workman' means any person..... (ii)

employed in any such capacity as is specified in Schedule II.

9. As per Schedule II under (ii) a workman within the Section 2(1)(n) is 'any person who is:-

employed..... in any premises wherein or within the precincts whereof a manufacturing process as defined in Clause (k) of Section 2 of the

[Factories Act, 1948](#), is being carried on,and mechanical power or electrical power is used.

10. In the Saw Mill of the respondent, electrical power is used. So one of the conditions mentioned in Schedule II to Section 2(1)(n) is fulfilled.

11. Now we have to see whether the manufacturing process is carried on in the Saw Mill of the respondent within the meaning of Clause (k)(i) of Section 2 of the [Factories Act, 1948](#).

12. As per Section 2(k)(i) of the [Factories Act, 1948](#), 'Manufacturing process' means any process for breaking up any article or substance with a view to its use, sale, transport, delivery or disposal,.....'

13. The logs in the respondent's Mill are obviously broken up and given finishing touches for the purpose of making furniture or for transport or for disposal or delivery.

14. Thus the second condition contemplated under Schedule II to Section 2(1)(n) and Schedule II(ii) of the Workmen's Compensation Act is also fulfilled.

15. This Court has laid down in FJR Vol.49 285 (S.M. SUBBANANJIAH v. INSPECTOR OF FACTORIES, MYSORE FJR Vol.49 285:ILR 1976 Kar 672) that the process of breaking up any article or substance or giving a finishing touch to any article or substance would bring the process within the scope of the definition of the expression 'manufacturing process' in Section 2(k)(i) of the Factories Act.

16. For the aforesaid reasons, I am of opinion, the Saw Mill in which cutting and sawing of logs is involved comes within the definition of 'Manufacturing process' as contemplated under Section 2(1)(n) of the Workmen's Compensation Act.

17. Accordingly the impugned order passed by the Commissioner for Workmen's Compensation, on 16.3.91 is set aside. The matter is remanded to the Commissioner to determine in accordance with law the compensation to which the appellant-claimant is entitled.

18. The Appeal allowed as stated herein and matter remanded.

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