

In Re: Reference under Schedule 4, Workmen's Compensation Act (amendment Act 15 of 1933)

In Re: Reference under Schedule 4, Workmen's Compensation Act (amendment Act 15 of 1933)

SooperKanoon Citation : sooperkanoon.com/469678

Court : Allahabad

Decided On : Apr-29-1936

Reported in : AIR1936All690; 165Ind.Cas.189

Appellant : In Re: Reference under Schedule 4, Workmen's Compensation Act (amendment Act 15 of 1933)

Judgement :

ORDER

1. This is a reference by the District Magistrate of Meerut under the Workmen's Compensation Act. Presumably the question as to whether the dependants of Alam Singh are entitled to compensation has been submitted for the decision of the High Court under Section 27 of the Act. The District Magistrate is the Commissioner for workmen's compensation appointed by the Local Government. The District Magistrate has differed from the opinion of his predecessor, but has not sent a copy of that opinion nor has he quoted the schedule under which the case would fall. Alam Singh was employed as a tube-well-operator under the Executive Engineer, and while still under training he was employed in a leave vacancy at the Bhatipura Block and met with an accident on 14th May 1935 on account of a fall which disabled his legs and ultimately proved fatal. Act 15 of 1933, containing the latest amendments to the Workmen's Compensation Act of 1923, applies to this case. Under Schedule 2, Clause 16, a person employed in

the making of any excavation in which on any one day of the preceding twelve months more than fifty persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds 20 feet, is included in the definition of 'workman,' subject to the provisions of the Act.

2. The various qualifications mentioned in this sub-clause are obviously mutually exclusive. It follows that anyone employed in the making of an excavation whose depth from its highest to the lowest point exceeds 20 feet would be a workman. We also think that his case would come within the scope of No. 10 as he was employed otherwise than in a clerical capacity in the construction, working or repair of a pipe-line. It is not suggested that he was employed in any clerical capacity. The mere fact that he was officiating in a leave vacancy would not take him out of the definition of a workman. Persons excluded from the definition are those whose employment is not only of a casual nature, but who are employed otherwise than for purposes of the employer's trade or business. It cannot be said that the deceased was not employed for purposes of the employer's business. Our decision accordingly is that the deceased Alam Singh was a workman subject to the provisions of the Workmen's Compensation Act and that his dependants are entitled to compensation.