

Mohammed Koya Vs. Balan

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Court : Kerala

Decided On : Dec-01-1986

Reported in : II(1988)ACC171; (1987)IILLJ486Ker

Judge : T. Kochu Thommen and; C. Sankaran Nair, JJ.

Appellant : Mohammed Koya

Respondent : Balan

Judgement :

C. Sankaran Nair, J.

1. This appeal Under Section 30 of the Workmen's Compensation Act, 1923, called 'the Act' hereinafter, is directed against an order awarding compensation to the workman. The appellant is the employer; the respondent, the workman. On 5-6-1976, while operating a circle saw, the workman sustained an injury, in the course of his employment, as a result of which he lost some fingers. The appellant was present at the time of the accident. So, says his son, witness No. 1 for the opposite party. A claim was made for compensation. Eventually, compensation in a sum of Rs. 7,560/- was awarded in accordance with Section 4 of the Act and Schedule I thereof.

2. Counsel for the appellant assailed the order on several grounds, based on questions of fact and law. The former we are not inclined to accept, because the

findings entered by the authority below are based on cogent evidence, and the appreciation of the evidence is not perverse. An appeal Under Section 30 of the Act is limited to substantial questions of law involved in the appeal; this Court is not a court of appeal on facts. The contours of Section 30 are well defined.

3. Counsel for the appellant challenged the award contending that there was no notice under Section 10 of the Act. The evidence of the witness for the opposite party clearly shows that the opposite party had notice of the accident. Notice is not a matter of form, but substance. Neither the Act, nor the Rules prescribe any form of notice. On the other hand, Section 10(1)(b) of the Act states that want of notice or any defect or irregularity in notice shall not be a bar to the entertainment of a claim, if the employer had knowledge of the accident. This, he had. The contention must therefore fail.

4. It was then urged that the award of Rs. 7,560/- is unsustainable because the claim made in the application was only for a sum of Rs. 5,000/-. We are not persuaded to accept this contention either. Section 4 of the Act requires that compensation shall be paid in accordance with the prescriptions or scale, indicated in the Schedules to the Act. (Emphasis supplied). This requirement, to our mind, is mandatory. The Act is a piece of social security legislation (though a pre-constitutional enactment), referable to the Directive Principles in the Constitution and, must receive an interpretation consistent with the canons of interpretation to be adopted in the case of beneficial legislations. As observed in *Works Manager, Central Railway Workshop v. Vishwanath* : (1970)ILLJ351SC ..All legislation in a welfare State is enacted with the object of promoting general welfare ; but certain types of enactments are more responsive to some urgent social demands and...therefore demand an interpretation liberal enough to achieve the legislative purpose.

5. The Act must receive an interpretation that would advance the object of the legislation. The workman cannot be cabined, confined and cribbed because he had named a sum of Rs. 5,000/- in his application as lump sum payment. This may be due to an error in calculation, or like reasons. Be that as it may, the language of the statute is clear, and the message cannot be missed. In our view,

the workman is entitled to get, what the statute entitles him to get. The view that we take, finds support in a decision of this Court reported in K.P. Kurian v. Hindustan Shipping Com-pany 1974 ACJ 493 (Kerala). A similar view has been taken by the Rangoon High Court in the decision reported in B.B S. Navigation Co. v. Ramana AIR 1932 Rangoon 141. Baguley, J. speaking for the Division Bench observed:

The Commissioner has no jurisdiction to give less compensation than that laid down in the Act, and the Commissioner is in no way fettered by what an ignorant cooly, helped perhaps by advisers only less ignorant than himself, may enter in his original application to the Commissioner.

6. The contention of the appellant is neither supported by principle, nor precedent. We reject the same.

7. The appeal is without merit, and must fail. We affirm the order of the authority below and dismiss the appeal, with costs.

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