State of Madras and anr. Vs. B.G.P. Lorry Service and anr.

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Court : Chennai

Decided On : Nov-16-1959

Reported in : AIR1960Mad336; (1960)ILLJ342Mad

Judge : P.V. Rajamannar, C.J. and ;Basheer Ahmer Sayeed, J.

Acts : Workmen's Compensation Act - Sections 8; Revenue Recovery Act - Sections 8(1); Land Acquisition Act - Sections 31(2); Constitution of India - Article 226

Appeal No. : Writ Appeal No. 3 of 1957

Appellant : State of Madras and anr.

Respondent : B.G.P. Lorry Service and anr.

Judgement :
(1) This is an appeal against the judgment of Rajagopala Aiyangar J. in W.P. No. 519 of 1955 () filed in the

following circumstances: One B. Ramalingam a workman employed as a cleaner by B.G.P. Lorry Service, Walltax Road, Madras received a fatal injury by accident on 15-5-1954, in the course of his employment. He actually died on 19th May 1954. His widow, Papathi Ammal filed an application in the prescribed form before the Commissioner for Workmen's compensation, praying for the award of compensation. The heading of the form itself is "Application for order to deposit of compensation;" The Additional Commissioner for Workmen's Compensation, Madras overruling the objections raised by the employer, held that a compensation of Rs. 1200 was payable. He ordered that the employer should deposit the compensation of Rs. 1200 together with costs amounting to Rs. 14.

The employee did not deposit the amount with the Commissioner, as directed. He is said to have paid that amount in person to the widow on 23-4-1955. In May 1955, the Commissioner took proceedings against the employer for the recovery of the sum which was directed to be deposited. The employer protested on the ground that the payment had been made to the widow and the claim was discharged. But the Commissioner held that, under S. 8 of the Workmen's Compensation Act, the liability to deposit the amount subsisted until the amount was actually deposited. Thereupon, the employer, B. G. P. Lorry Service, filed a petition under Art. 226 of the Constitution for the issue of a writ of prohibition, restraining the Commissioner from taking coercive steps for the recovery of the sum of Rs. 1214.

(2) The learned Judge who heard the writ petition allowed it without entering into the question as to whether the provisions of S. 8 of the Act are directory or mandatory. He was of opinion that, as the proceeds of the recovery were to be held for the benefit of the claimant, the authorities could not start recovery proceedings without being moved by a party who had not been paid. The State of Madras represented by the Collector who was taking the coercive proceedings and the Additional Commissioner for Workmen's Compensation, Madras, are the appellants before us.

(3) With respect to the learned Judge, we cannot agree with him. He was overlooked several facts and relevant provisions of the Workmen's Compensation Act. The learned Judge assumed that the only dependent was the widow. But it appears from the very application made by the widow that she has three children. He also appears to have overlooked the fact that the order of the Additional Commissioner was not to pay the amount of Rs. 1214 to the widow, but to deposit the money with the Commissioner.

The learned Judge refers to the claim being discharged. That is also not correct, because, under the Act a payment outside in person will not discharge the claim.

He further considered that the authorities could not start recovery proceedings without being moved by a party who had not been paid. This, again, is based on the wrong conception that a party may be paid in person. There is no provision in the Act which contemplates an application by a party to move the authorities to recover the amount of compensation by resort to the machinery of the Revenue Recovery Act. Section 8(1) of the Act lays down in unequivocal terms that no payment of compensation in respect of a workman whose injury has resulted in death and no payment of lump sum as compensation to a woman or a person under a legal disability shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation.

Under Sub-sec. (3) of the same section, it is the receipt of the Commissioner which is a sufficient discharge in respect of any compensation deposited with him. Under Sub-sec. (5), compensation deposited in respect of a deceased workman shall, subject to certain deductions mentioned in sub-sec. (4), be apportioned among the dependents of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependent. Sub-section (7) provides that, where any lump sum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct. Sub-section (6) confers power on the Commissioner to vary a prior order as regards the disposal of the compensation amount. Section 31 authorises the Commissioner to recover as an arrear of land revenue any amount payable by any person under the Act.

(4) From the above provisions, it is clear that the Act does not contemplate a payment of compensation by the employer to any party in person as sufficient discharge of his liability. The reason is fairly obvious. The Commissioner is expected to safeguard the interests of all the dependents of a deceased workman. The definition of "dependent" includes within the meaning of the term several relatives of a deceased workman who may not be heirs under the law applicable to him. As we have pointed above, the Commissioner is given unfettered discretion

to apportion the amount of compensation among the dependents; that is to say, he is not bound by the rules of the personal law of the deceased workman.

In the case of a woman, the Commissioner is bound to invest the amount of compensation. When these are the provisions of the Act, we cannot agree with the learned Judge that the payment of the compensation amount in person to a woman, that is, the widow of the deceased workman, especially when, even according to her own statement, she has three children, is a sufficient discharge. An analogy may be given from the Land Acquisition Act. Under S. 31(2), if there is no person competent to alienate the land, or, if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector is bound to deposit the amount of the compensation in the court to which a reference under S. 18 would be submitted.

If the Collector, in contravention of this provision, pays over the amount in such circumstances to a party, it cannot be said that the Government obtains a valid discharge. Sections 32 and 33 provide for investment of the compensation amount after deposit into court, just as the Workmen's Compensation Act also provides for investment of monies payable to a woman or a person under a legal disability. Of course, when a workman is injured, but not fatally, the only person entitled to compensation would be the workman. There is no question then of deposit to be made with the Commissioner. But, if the injury to the workman results in his death, then, questions would arise as to the dependents who would be entitled to the compensation. Hence the provision in sub-sec. (1) of S. 8 that no payment of compensation in respect of a workman whose injury has resulted in death shall be made otherwise than by deposit with the Commissioner.

(5) In this view, the appeal is allowed, and the petition filed by the first respondent under Art. 226 of the Constitution, is dismissed. There will be no order as to costs.

(6) Appeal allowed.