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Post Master General, P and T and ors. Vs. Kaushalya Devi

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Court : Jammu and Kashmir

Decided On : Feb-22-2002

Reported in : 2003(2)JKJ728,(2003)ILLJ515J& K

Judge : S.K. Gupta, J.

Acts : Workmen's Compensation Act, 1923 - Section 2(1)

Appeal No. : C.I.M.A. No. 71/2000

Appellant : Post Master General, P and T and ors.

Respondent : Kaushalya Devi

Advocate for Def. : O.P. Thakur, Adv.

Advocate for Pet/Ap. : Ravinder Gupta, Adv.

Disposition : Appeal dismissed

Judgement :

S.K. Gupta, J.

1. This is an appeal directed against the order dated March 31, 2001 propounded by the Commissioner, Workmen's Compensation, whereby he has awarded an amount of Rs. 27,670/- as compensation and imposed cost of Rs. 1000/- in favour of the deceased workman, Krishan Chand, under the Workmen's Compensation

Act, 1923 (hereinafter 'Act' for short).

2. It is not in dispute that the respondent's husband, late Krishan Chand, was employed as Branch Postmaster, Roat, and served the department from May 6, 1963 to January 9, 1989. He was employed on a monthly allowance of Rs. 433/- and this was his considered pay at the time of his death. Krishan Chand expired on January 9, 1989 due to heart attack. Thereafter, respondent moved an application to the Commissioner for grant of compensation. The claim of the dependent of the deceased was contested by the appellants, non-applicants, in their demurrer filed on July 10, 1989 on the ground that the deceased was not covered under the Workmen's Compensation Act, as per Departmental Rules and, thus, not entitled to compensation. It was further stated that the deceased got heart attack while he was off the duty and, thus, deceased did not receive any injury during the course of his duty.

3. During inquiry, the statement of Abdul Rehman and of the claimant was recorded by the Commissioner, Budhi Singh, one of the witnesses, was also examined by the appellants, non-appellants, in rebuttal. The stand of the appellants, non-applicants, before the Commissioner was that the deceased was an Extra Departmental Employee and was strictly governed under the P&TEDAs; (Conduct and Service) Rules, 1964 and, therefore, Workmen's Compensation Act is not applicable to him. In the light of the relevant material brought on record during inquiry, the claim of the dependent of the deceased was upheld by the Commissioner and granted compensation under the Act by his impugned order.

4. The main plank of the appellants' contention in assailing the correctness of the order passed by the Commissioner, Workmen's Compensation Act, is that the deceased did not fall within the definition of 'workman' as defined in the Postal Manual and, thus, not entitled to compensation. Rule 150 of the Postal Manual reads as under:

'150. The Principal classes of employees i.e. the Posts and Telegraphs Department who are included within the definition of 'workman' in Clause (n) of Sub-section (1) of Section 2 of the Workmen's Compensation Act, 1923 read with Schedule II thereto are the following, provided that they are employed on monthly

wages not exceeding five hundred rupees:

Classof employee

Relevantclasses In Schedule II

Lorrydriver

Clause(i)

Assistantforeman, examiner, yard foreman and officials employed in manufacturingprocess in the Telegraph Workshops, Alipore.

Clause(ii)

Packingforeman, packing Supervisor, packer, carpenter, label writer.

Clause(iii)

Lascar,Sardar, lister Driver

Clause(iii) or (vii)

DespatchAssistant (loader), boy lascar, driver with Assistant, manjee and Dandee,marker, weighman.

Clause(vii)

Inspectorand sub-inspector of Telephone, lascar, wireless, mast lascar, electrical machine,electric, mazdoors, oiler, cleaner.

Clause(ix)

Cablejointer, assistant cable jointer

Clause(ix) or (xvi)

Enginedriver

Clause(ix) or (xix)

Engineeringsupervisor

Clause(ix) or (xii) or (xv) or (xix)

Electricalsupervisor

Clause(ix) or (xix)

LineInspector and sub-Inspector of Telegraphs, Trollyman, phone inspector.

Clause(xii)

Inspectorof Post Offices, Town Inspector (Postal), Inspector of R. M. S., Inspector ofpeons, orderly peons to the Inspector of Railway Mail Service, Head postman,postman, village postman, letter officials working in Mobile Post Offices,Box peon, mail peon, line overseer, Runner, ghat porter, mail guard, R.M.S.sorter, R.M.S. porter, van peon, mail Overseer boatman, telegraph, Messenger,taskwork messenger, Telegraph peon, delivery peon, bicycle peon,extra-departmental, Mail carrier, extra-departmental Messenger, Extra-DepartmentalDelivery Agent, Extra- Departmental Porter, Extra-Departmental Mail Peon andExtra-Departmental Letter Box Peon, mazdoor on daily Wages, line rider, cableguard, motor Driver, mail clerks whose duty is to Escort mails in maillorries, and Despatch riders.

Clause(xiii)

xxxx xxxxx xxxxx

xxxxx xxxxx xxxxx

5. A plenary reading of the aforesaid provisions makes it abundantly clear that the case of the deceased workman is fully covered under Section 2(1)(n) read with Schedule-II. Contention raised by the appellants' counsel, therefore, is legally unfounded and does not merit acceptance.

6. It is admitted by the appellants that deceased, Kishan Chand, was appointed by the Department as Extra-Departmental employee on the monthly wages of Rs.

433/-. It is further stated that the brother of the deceased has been employed in the Department in place of the deceased and an amount of Rs. 3000/- has been paid to deceased's dependent by way of financial aid in addition thereto.

7. It is pertinent to point out that the Workmen's Compensation Act, 1923 is a piece of social security legislation and it is generally accepted that the various provisions of the Act ought to receive a liberal interpretation. Since the Act is a welfare legislation, made for the interest of the poor workmen, even if any particular provision of the Act is capable of two interpretations, that which is more favourable to the person for whose benefit the legislation has been made, should be adopted. Therefore, the doubt, which the appellants have insisted to bring in the mind of the Court with regard to the applicability of the Act and in view of Rule 150 of Postal Manual, must be resolved in favour of the workman, in preference to the employer. Such liberal interpretation would accomplish the humane and welfare purposes of this legislation, the provisions of which are truly responsive to the socio-economic needs recognized by our society and also by the Constitution. The rights of workmen deserve to be treated generously while applying the statutory provisions. Undisputedly, the deceased workman has died due to heart failure. As is given in the evidence during inquiry, the deceased has died while returning from his duty. The heart failure, undoubtedly, is due to strain out of work and fatigue in doing the work and the proper and inescapable inference to draw would be that he died of accident out of and in the course of his employment.

8. An 'incident' which is unforeseen is an accident; both meaning the same in its contour and context, and be construed in its proper sense in a given situation. What the Workmen's Compensation Act intends to convey is, what right a workman expressed in an accidental injury. It is settled law that the term 'accident' means some 'unexpected and unforeseen event' or unlocked for mischief. If the injury or death from the point of view of the workman, who suffers or dies, is unexpected or undersigned on his part, then that injury would be by an accident, although it may be brought about by heart attack or some other cause to be found, is the condition of the workman.

9. In my view, the impugned order formulated by the Commissioner, Workmen's Compensation, does not suffer from any legal infirmity or factual frailty inviting inference in appeal.

10. In the result, the appeal is dismissed and the compensation awarded and the cost imposed by the Commissioner, Workmen's Compensation is upheld. Appeal stands disposed of accordingly. Record shall be remitted back to the Court of Assistant Labour Commissioner, Doda.

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