
(1975) 07 MP CK 0011
In the Madhya Pradesh High Court

Bhopal Sugar Industries Limited and Another	APPELLANT
Vs	
Sumitra Bai Battan and Others	RESPONDENT

Date of Decision : 03-07-1975

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Employees Compensation Act, 1923 — Section 2

Citation : (1975) ACJ 387 : (1980) ILR (MP) 560 : (1975) JLJ 652 : (1976) 1 LLJ 452 : (1975) 20 MPLJ 647

Hon'ble Judges : S.S. Sharma, J;G.P. Singh, J

Bench : Division Bench

Judgement

S.S. Sharma, J.

This petition under Articles 226 and 227 of the Constitution of India has been filed by the petitioners for quashing the order, dated 25-7-1974, passed by the Commissioner for Workmen's Compensation, Bhopal (hereinafter referred to as "the Commissioner ") in case No. 16 of 1973.

The facts giving rise to this petition are as follows:

The respondents filed an application under the Workmen's Compensation Act, 1923 (hereinafter referred to as "the Act") before respondent No. 6 Commissioner claiming a lumpsum payment of Rs. 7,000 or more as the case may be from petitioner No. 2, who is the Manager of petitioner No. 1, on the ground that Shri Battan was a workman employed with petitioners and so on 21-4-1972 at about 1-30 p.m., while on duty was bitten by a snake resulting in his death. It is alleged that on that day while the deceased was on duty for irrigating sugarcane crop he after completing his work of irrigating the portion of plot No. 97 of sugarcane crops at Mungaoli Farm came out of that plot and sat under a nearby Khajur tree awaiting for his co-workers to come out of the plot so that he alone with those co-workers may proceed to other sugarcane plots for irrigating them. It was while he was so sitting that the deceased was bitten by a snake.

The petitioner-company disputed the claim and inter alia raised an objection that the deceased Battan was not a workman as defined u/s 2(1)(n) of the Workmen's Compensation Act, 1923,

The Commissioner framed issues of which issue No. 1 which is as follows was treated as a preliminary issue;

(1) Whether Battan was workman within the meaning of Workmen's Compensation Act.

After recording the evidence, as was led by the parties, the Commissioner by the impugned order held that the deceased was a "workman" and accordingly decided issue No. 1 in favour of respondents 1 to 5.

In the petition filed in this Court, it is admitted that petitioner No. 1 company owns agricultural lands wherein sugarcane is grown which is utilised by it for manufacturing sugar. Admittedly, the company owns at least six tractors which are used for purposes of ploughing lands. According to the petitioners, after ploughing, the other agricultural operations such as sowing, etc, are done by manual labour. In para 2 of the petition it is further averred as follows:

The irrigation to the plants is also done by manual labour. The manual labour is only needed to supervise and control the flow of water which comes from the tanks into the fields.

In the return to the petition that has been filed in this Court respondents 1 to 5 have stated that the company owns about 5,000 acres of agricultural land situated at 6 different places of which Mungaoli where the accident took place happens to be one. It has further been alleged that farming is done with the help of tractors, mechanical plough, mechanical harrows, seed drills. spray machines, dusting machines, etc., which are all driven by mechanical power and also by electricity. According to them irrigation also is being done by electrically driven pump. The petitioner neither by an amendment nor otherwise controverted these allegations in the return.

From what has been stated above, there could be no dispute about two things at least. Firstly, that ploughing is done by tractors which has been found by the Commissioner also and secondly, that for irrigating the sugarcane fields pumps driven by mechanical power or electricity, are used and the manual labour only supervises and controls the flow of water. As has been admitted by Rangnath Devdutta Bengali, Farm Superintendent of the petitioner in his evidence the sugarcane is also carried from the farms to the factory in tractors.

Section 2(1)(n) of the Act defines workman as follows:

Workman " means any person other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is-

(i) A railway servant....

(ii) Employed on monthly wages not exceeding four hundred rupees, in such capacity as is specified in Schedule II whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing: but does not include any person working in the capacity of a member of the Armed Forces of the Union and any reference to a work-man who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

It is common ground that. Clause XXIX of Schedule II, which is as follows, is the only clause that would be relevant for purposes of his case.

The following persons are workmen within the meaning of Section 2(1)(n) and subject to the provisions of that section, that is to say, any person who is-

(xxix) employed in farming by tractors or other contrivances driven by steam or other mechanical power or by electricity; or

The word "farming" ordinarily means business of cultivating land which obviously does not mean merely ploughing of land but all other subsequent operations in which a farmer necessarily engages like irrigating the fields, harvesting the crop, etc. It is common knowledge that tractor cannot be used for all the different agricultural operations from the stage of ploughing the land to the last stage of the farmer getting the crop or the yield. For some of the operations tractors may be used while most of the other operations can, with the availability of the modern agricultural implements, now be done by contrivances driven by steam or other mechanical power or by electricity. If in farming tractors as also other contrivances driven by steam or other mechanical power or by electricity as could be used in different operations and at different stages, are used then that may, as is commonly known be called "mechanised farming." In such cases there may not be any difficulty in coming to a conclusion whether a particular employee in such farming is covered within the definition of "workman" read with the Clause XXIX of Schedule II. of the Act or not. A difficulty may certainly arise in cases where, say for example, only initial ploughing has been done by tractors and no other contrivances driven by a steam or either mechanical power or by electricity is used at any stage of the agricultural operations. A similar difficulty may also arise in cases where tractor may not at all have been used but in one or some of the agricultural operations contrivances driven by steam or other mechanical power or by electricity are used,

To take Clause XXIX of Schedule II of the Act to mean that if tractor or other contrivances driven by steam or mechanical power or by electricity, are used at any stage of the farming, then all the employees engaged in such farming would be covered within the meaning of "workman" as defined in the Act, would be to give it a much wider meaning. Supposing a farmer hires a tractor and gets his land ploughed by it, but thereafter for sowing, irrigating harvesting, etc., neither a tractor is used nor any other contrivances referred to in cl. XXIX are used. In these circumstances can an employee engaged in harvesting be covered within

the definition of workman? The answer would obviously be " no " for the simple reason that he is not employed in farming by tractor or by contrivances as mentioned in Clause XXIX.

The Workmen's Compensation Act, 1923 has been enacted to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident. To read Clause XXIX of Schedule II of the Act to mean that persons who are employed on the tractor or other contrivances mentioned in that clause alone would be covered within the definition of workman read with Schedule II would be giving it too narrow a construction. In fact had this been the intention behind this cl, XXIX the language would have been different. In our view, the correct meaning of this ci. XXIX would be that persons who are employed for any such work which has some nexus or connection with the tractor or other contrivances mentioned in that clause or with the work that is being done by them would be workman. TO illustrate if an employee is working on the tractor itself or is working on the electric motor by which water is being pumped for irrigation he would apparently be covered by Clause XXIX and thus would be a workman. But then if the person is employed to pick out stones from the fields when ploughing by tractor is being done, or a person is irrigating the fields by the water being pumped by the electric motor then also since his work has a nexus in the first case with the tractor and in the other- case with contrivance driven by electricity, hence he would be a workman. This, however, would always be a question of fact to be determined in each case.

In the present case the learned Commissioner has observed as follows:

It is clear and admitted that persons employed in cultivation by tractors are covered by the term workman. So the only point in dispute remains that whether ploughing is covered by the term farming or cultivation. The process of preparing land fit for sowing in the beginning of season till harvesting is covered by the term cultivation or farming. If tractor is used in any of the process beginning from ploughing to harvesting it can be said that persons employed in any of the process are employed in farming or cultivation by tractor.

In our opinion, this view of the learned Commissioner is based on the wider of construction Clause XXIX of Schedule II of the Act which in view of what we have said above, is not the correct meaning of this Clause XXIX. It appears that the applicants before the learned Commissioner felt that since tractors are used for ploughing the fields, this would be the end of the matter on the question whether the deceased was a workman and no further attempt to get further material was made. There is no evidence on record which would prove any nexus of the deceased with the tractor or with the work done by the tractor. The finding of the learned Commissioner that the deceased was a workman can, however, be upheld for the other reasons. There is other material on record to hold that the deceased was a " workman"". The deceased was admittedly working as an irrigator, at the relevant time, although there is evidence to show that during the period when irrigation was not being done he used to do other work also. The

petitioner has admitted that in irrigation manual labour is required only to "super-vice and control the flow of water ". The respondents 1 to 5 in their return have averred that electrically driven pumps are also used. Thus it is clear that water required for irrigation is being pumped by mechanical pumps or electric motors. The deceased had thus nexus with the work that was being done by the mechanical pumps or the electric motors. Irrigation, obviously is a necessary part of " farming ". That being so the deceased would be a workman as defined in Section 2(1)(n) read with Clause XXIX of Schedule II of the Workmen's Compensation Act, 1923. "

Consequently, this petition fails and is hereby dismissed. In the circumstances, we leave the parties to bear their own costs. The amount of security deposit shall be refunded to the petitioner.