

(2002) 02 JH CK 0106

In the Jharkhand High Court

Case No : Appeal from Original Order No. 80 of 1996 (R)

Chief Security Commissioner (RPF), Calcutta and Another

APPELLANT

Vs

Shrista Devi

RESPONDENT

Date of Decision : 06-02-2002

Acts Referred:

Railway Protection Force Act, 1957 — Section 3(1)
Workmens Compensation Act, 1923 — Section 2

Citation : (2003) 1 ACC 371 : (2003) ACJ 2151 : (2002) 94 FLR 842

Hon'ble Judges : Hari Shankar Prasad, J; Gurusharan Sharma, J

Bench : Division Bench

Advocate : B. Chatterjee, for the Appellant; S. Piperwal, for the Respondent

Final Decision : Allowed

Judgement

1. Admittedly Ajay Bahadur Singh, husband of respondent was employed as Railway Protection Force Constable under the Eastern Railway at Dhanbad.

2. In course of his duty on 23.8.1987 he met an accident and was severely injured and ultimately died on the next day i.e. on 24.8.1987. He was aged about 32 years at the time of accident and his monthly salary was Rs. 920/-.

3. His widow Srista Devi filed W.C. Case No. 2 of 1991, under the Workmen's Compensation Act, 1923, for compensation and by impugned order and award dated 8.12.1995, a sum of Rs. 81,540/- was directed to be paid to her by the appellants.

4. Appellants herein had raised the question of maintainability of the proceeding under the said Act. It was contended that after amendment in Section 3(1) of the Railway Protection Force Act, 1957, by amending Act No. 60 of 1985, the deceased constable, who was a member of "Force" became a member of "Armed Force of the Union". Section 2(n)(ii) of the Workmen's Compensation Act, 1923, debars a person to be treated as a workman, who is working in the capacity of a member of the Armed Forces of the Union.

5. The accident took place on 23.8.1987, when admittedly the deceased constable was a member of the Armed Forces of the Union and, therefore, he was not a workman within the meaning of the Act and a proceeding under the Act for compensation on behalf of his widow was not maintainable.

6. We have, therefore, no option but to set aside the impugned order and award and thereby dismiss W.C. Case No. 2 of 1991, which was filed in the court below by the sole respondent herein.

7. In the result, the appeal is allowed, but without costs.

8. The compensation amount of 81540.00 deposited by the appellants shall be permitted to be withdrawn by them in accordance with law.