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**(1998) 06 AP CK 0052**  
**In the Andhra Pradesh High Court**  
**Case No : AAO No. 1472 of 1994**

Divisional Engineer, Telecommunications, Palasa, Srikakulam APPELLANT  
Vs  
I. Sankara Rao and another RESPONDENT

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**Date of Decision :** 26-06-1998

**Acts Referred:**

Railways Act, 1989 — Section 2  
Workmens Compensation Act, 1923 — Section 2(1), 2(2), 30

**Citation :** (1999) 1 ACC 602 : (1998) 6 ALD 194 : (1998) 6 ALT 171 : (1999) 82 FLR 25 : (1999) 2 LLJ 1316

**Hon'ble Judges :** A.S. Bhate, J

**Bench :** Single Bench

**Advocate :** Mr. R.S. Murthy, SC for C.G, for the Appellant; Mr. A. Rama Rao, for the Respondent

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## Judgement

1. The Award passed by the Commissioner for Workmen Compensation, Visakhapatnam, in W.C.No. 1 of 1990 dated 15-4-1994 is the subject-matter of this appeal.

2. The brief facts of the case are that respondent No.1 was working as driver with the appellant on Van No. APS 5437. On 13-8-1987 while he was driving the said vehicle, in course of his employment, i.e., for carrying technicians for bringing the generator from Poondigalli, the vehicle met with an accident and he received injuries. After having become unconscious immediately i.e., on the spot, he was admitted in hospital on 19-8-1987 and later he was treated in a private hospital. Respondent No. 1 received several injuries. He was drawing a salary of Rs.1050/- per month. He claimed a compensation of Rs. 1,17,396.75 ps.

3. The claim was resisted by the appellant on the ground that respondent No.1 was not a regular employee as he was employed as and when need arose for the Department. Whenever there was shortage of drivers, his services were taken. It is contended that he was employed on daily wage basis and was a casual worker. He worked on 17-7-1987, 30-7-1987, 4-8-1987 to 9-8-1987, 12-8-1987 and

13-8-1987. Only minor injuries were received by him and the accident was due to his own negligence. No notice was given at any time to the appellant about the injuries. The claim was thus denied.

4. The Commissioner for Workmen Compensation after recording the evidence, awarded a compensation of Rs.49,155-75 ps. The said order is now challenged in this appeal.

5. Under the proviso to Section 30 of the Workmen Compensation Act (for short, the Act) no appeal can lie against any order unless a substantial question of law is involved in the appeal. In the circumstances, the point that arises for determination is whether there is any substantial question of law in the appeal in question.

6. The point raised in the appeal is that respondent No. 1 is only a casual worker and was therefore not workman within the meaning of Section 2(l)(n) of the Act. The definition of workman reads 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 as defined in (Clause 34 of Section 2 of the Railway Act, 1989 (24 of 1989)) not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or

((ia) (a) a master, seaman or other member of the crew of a ship,

(b) a captain or other member of the crew of an aircraft,

(c) a person recruited as driver, helper mechanic, cleaner or in any other capacity in connection with a motor vehicle,

(d) a person recruited for work abroad by a company, and who is employed outside India in any such capacity as is specified in Schedule II and the ship, aircraft or motor vehicle, or company, as the case may be, is registered in India, or);

(ii) employed (x x x) (x x x) in any 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) ( x x x); and any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them."

It will be seen that any person who is employed for the purposes of the employer's trade or business is a workman. Section 2(2) of the Act makes it

clear that the exercise and performance of the powers and duties of a local authority or of any department (acting on behalf of the Government) shall, for the purposes of this Act, unless a contrary intention appears, be deemed to be the trade or business of such authority or department. Thus it would be seen that if respondent No.1's services were utilised for the purpose of trade or business of the appellant department, then he will fall within the term workman as defined under the Act. The admitted evidence in the case is that respondent No.1's services were being utilised whenever there was need of drivers in the department. His services were utilised for the work of the department. His services have been utilised on various dates. In the circumstances, having regard to Section 2(2) of the Act read with Section 2(l)(n) of the Act it follows that the services of respondent No.1 were utilised for the trade or business of the appellant department. That being so, the respondent No. 1 was a workman within the meaning of Section 2(l)(n) of the Act. This was the only substantial question of law. In view of the fact that a true reading of Section 2(l)(n) of the Act clearly shows that respondent No. 1 was a workman, the amount awarded in his favour cannot be disputed or challenged in the appeal and no other question of law much less substantial one is involved in the appeal.

7. The C.M.A. is, therefore, dismissed. No costs.