

(1984) 05 P&H CK 0003

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 248 of 1976

Intra Chemicals and Drugs (P) Ltd.

APPELLANT

Vs

Rupa Narain

RESPONDENT

Date of Decision : 23-05-1984

Acts Referred:

Citation : (1985) 1 ILR (P&H) 263

Hon'ble Judges : J.V. Gupta, J

Bench : Single Bench

Advocate : Arun Jain, for the Appellant; Anil Seth, for the Respondent

Final Decision : Dismissed

Judgement

J.V. Gupta, J.—Narain Singh, workman, died during the course of his employment on March 13, 1976. The application for compensation, dated May 17, 1976, was filed on behalf of his widow and the children under the Workmen's Compensation Act, 1923 (hereinafter called the Act). The amount of compensation claimed therein was Rs. 8,000 as per Schedule IV to the Act, according to the claimants, as the salary of the workman was stated to be Rs. 230 per month. The said application was contested on behalf of the employer-Appellant. Ultimately, the same was allowed by the Commissioner under the Act, and the employer was directed to deposit a sum of Rs. 8,000 as the compensation payable to the claimants. However, after the passing of the said order by the Commissioner, another application, dated July 9, 1976, was moved on behalf of the claimants for the modification of the order passed by the Commissioner earlier on June 30, 1976, whereby he had allowed Rs. 8,000 as the compensation payable to the claimants. In the subsequent application, it was stated that in the application for compensation, the compensation amount of Rs. 8,000 was claimed under the old Schedule IV to the Act, which had, in fact, been revised subsequently with effect from October 1, 1975, through a bona fide mistake, and that under the amended Schedule IV, they were entitled to the compensation of Rs. 18,000. The learned Commissioner allowed the said

application,--vide his order, dated July 13, 1976. However, the amount of compensation allowed was Rs. 16,800 and not Rs. 18,000 as claimed in the subsequent application because the monthly income of the workman was found to be Rs. 200 only. Dissatisfied with the same, the employer, i.e., M/s. Intra Chemicals and Drugs (F) Ltd. filed the present appeal in this Court.

2. The main argument raised on behalf of the Appellant is that admittedly, in the claim application a sum of Rs. 8,000 was claimed and the said sum was allowed as compensation by the Commissioner vide order, dated June 30, 1976. Once the said order was passed, the same could not be reviewed subsequently as there was no power under the Act to do so. Besides, it was also argued that no notice of the subsequent application was given to the Appellant and that the order dated July 13, 1976, was passed behind the back of the Appellant.

3. After hearing the learned Counsel for the parties, I do not find any merit in this appeal.

4. It is not disputed that according to Schedule IV (as it stood on October 1, 1975), the claimants were entitled to a sum of Rs. 16,800 at the time of the filing of the original application, dated May 17, 1976. Admittedly, the death of Narain Singh had taken place on March 13, 1976. At that time, according to the amendment to the Schedule which came into force with effect from October 1, 1975, the amount of compensation payable was Rs. 16,800 if the monthly wages of the workman were more than Rs. 150 but not more than Rs. 200. Simply because in the original application, the amount claimed was Rs. 8,000, it will not deprive them of the amount to which they were entitled under the Act. In the subsequent application, dated July 9, 1976, it was specifically pleaded that the earlier application was filed according to the old Schedule through bona fide mistake and, therefore, under the circumstances, it could not be successfully argued on behalf of the Appellant that the earlier order passed by the Commissioner, dated June 30, 1976, could not be modified by him subsequently when the amended provisions were brought to his notice.

5. It may be that the notice should have been given to the Appellant of the application filed subsequently on behalf of the claimants, but on the facts admitted, it could not be successfully argued that it prejudiced the Appellant in any manner. It is to be borne in mind that the Act is a social legislation and if the workmen are entitled to a particular sum under the Act, they could not be deprived for the same because of a bona fide mistake in not claiming the same. Thus, under the circumstances, the Commissioner was within his jurisdiction to modify his earlier order, dated June 30, 1976, and: to pass the appropriate order as provided under the Act.

6. In this view of the matter, this appeal fails and is dismissed with costs.