

(2001) 02 KAR CK 0060
In the Karnataka High Court
Case No : M.F.A. No. 2472 of 1994

Joint Director of Public Instructions and Another	APPELLANT
Vs	
B.V. Suvarna and Another	RESPONDENT

Date of Decision : 16-02-2001

Acts Referred:

Employees Compensation Act, 1923 — Section 2 (1) (n)

Citation : (2002) 2 ACC 50 : (2002) 1 ACC 128 : (2002) ACJ 128 : (2001) 2 KCCR 1310

Hon'ble Judges : K. Sreedhar Rao, J

Bench : Single Bench

Advocate : D.U. Naidu, H.C.G.P, for the Appellant; V.N. Satyanarayana, for the Respondent

Judgement

K. Sreedhar Rao, J.—The appeal preferred against the judgment and award made by the Commissioner for Workmen's Compensation-cum-Labour Officer, Mandya in L.M. (WCA) C.R. 69 of 1992-93 awarding compensation to the respondents herein in a sum of Rs. 78,824 along with costs and interest.

2. The appellants herein are the respondents in the original proceedings. The respondents in the present appeal who are the claimants made a claim for compensation against the appellants for death of one Srikanta kumar who was employed as a stipendiary teacher in Book an care Government School. Deceased was working as teacher in the said school for past 12 years. He died of renal failure and heart attack on account of high blood pressure he was suffering. The claimants are the wife and children of the deceased. They contend that on account of the pressure and tension of work the deceased had to meet with unfortunate death while in service on 30.3.1990.

3. After going through the impugned judgment of the Workmen's Compensation Commissioner (hereinafter called "the Commissioner"), it is shocking to note that the Commissioner appears to be ignorant of basic rudimentary aspects of the provisions of the Workmen's Compensation Act and the award appears to

have been made with a mindless magnanimity. Under the provisions of the Workmen's Compensation Act (hereinafter called "the Act"), only the "workman" defined u/s 2(1)(n) and their dependants as defined u/s 2(1)(d) of the Act are alone entitled to claim compensation. In the present case, only the definition of "workman" is relevant for consideration. Therefore, the definition of workman in Section 2(1)(n) is extracted hereunder:

"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 Section 3 of the Indian Railways Act, 1890 (9 of 1890), 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 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; 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.

The Schedule II enumerates the different nature of avocations in which the persons employed are considered as "workman" for the purpose of the Act. On going through the provisions of Schedule II where with a specific emphasis any person other than employed in a clerical capacity are deemed to be workman for the purpose of the Act. The combined reading of the provisions of the definition "workman" and the nature of trade and avocations enumerated in Schedule II would imply that only such of those persons who indulged in manual and skilled activities in the enumerated trades and avocations are alone treated as workman. The persons who are working in clerical capacity although associated with the trades and avocations mentioned in the definition are excluded from the definitional net of a workman. Imparting of education in the school and running of school are not covered by the definition of "workman" nor is enumerated in

Schedule II as a trade or avocation. Therefore, any person employed in a school activity much less working as a teacher could hardly be considered as a workman within the meaning of the Act.

4. The Workmen's Compensation Commissioner strangely takes a view that the pressure of work resulting in renal failure and heart attack is as a result of an occupational hazard. The Schedule III with reference to Section 3 lists out the nature of occupational disease probable in different fields of employment. Therefore, a teacher dying of heart attack and renal failure can hardly be considered as an occupational disease and the law does not recognise such contention. Therefore, in view of clear and express provisions of the Workmen's Compensation Act, the deceased cannot be considered as a "workman" under the Act and the claim for any compensation would not have been entertained by the Commissioner.

5. In that view of the matter, the judgment and award is set aside.

6. A copy of this judgment may be communicated to the Ministry of Labour, Government of Karnataka to take due note of the observations made against the officer concerned while writing his A.C.Rs. and while considering his promotion to higher cadre.