
(2008) 02 DEL CK 0216
In the Delhi High Court
Case No : F.A.O. No. 18 of 2002

Oriental Insurance Co. Ltd.

APPELLANT

Vs

Narender Kaur and Others

RESPONDENT

Date of Decision : 28-02-2008

Acts Referred:

Workmens Compensation Act, 1923 — Section 4, 4(1)

Citation : (2009) ACJ 1481

Hon'ble Judges : Pradeep Nandrajog, J

Bench : Single Bench

Advocate : Ram N. Sharma, for the Appellant; M.M. Kalra, for the Respondent

Final Decision : Allowed

Judgement

Pradeep Nandrajog, J.—For the reasons stated in the application the same is allowed.

F.A.O. No. 18 of 2002:

The question which arises for consideration in the appeal stands concluded by the decisions of the Hon'ble Supreme Court reported as Kerala State Electricity Board and Another Vs. Valsala K and Another, followed in the decision reported as Oriental Insurance Co. Ltd. v. Khajuni Devi III (2006) ACC 768 (SC).

2. The Hon'ble Supreme Court has held that under the Workmen's Compensation Act, compensation payable has to be with reference to the statutory provisions in force as on the date of accident.

3. Learned Counsel for the respondents relies upon a decision of the Hon'ble Apex Court reported as Rathi Menon Vs. Union of India,

4. In the said decision Hon'ble Supreme Court has dealt with the issue whether decisions under Workmen's Compensation Act would be applicable to decisions under the Railways Act. In view of the difference in the scheme pertaining to compensation under the Railways Rules, 1990 and Section 4 of the Workmen's

Compensation Act, it has been held that decisions under the Workmen's Compensation Act pertaining to compensation are not applicable to the decisions under the Railways Act, 1989.

5. In the instant case I note that the date of accident is 11.6.95. The compensation has been assessed by the Commissioner, Workmen's Compensation with reference to the amendments incorporated in Section 4 after the accident took place.

6. The impugned order accordingly requires a correction in that compensation payable has to be determined with reference to the wages applicable under Sub-clause (a) of Sub-section (1) of Section 4 of the Workmen's Compensation Act as in force on 11.6.1995.

7. The impugned order is accordingly set aside insofar the quantification of the compensation has been determined.

8. I also note that learned Commissioner has awarded Rs. 30,000 to the claimants. But under what head has not been brought out. Thus said part of the order is also set aside.

9. Parties are directed to appear before the Commissioner, Workmen's Compensation on 30.4.2008 who shall recompute the compensation payable and while so doing would consider Section 4(1)(a) of the Workmen's Compensation Act as in force on the date of the accident. Interest would be at the rate and from the date as per the award.

10. I am informed by learned Counsel for the appellant that entire amount as per award has been deposited by the appellant with the Commissioner, Workmen's Compensation. Part amount has been released to the claimants. Thus the Commissioner, Workmen's Compensation would recompute the amount payable and would make further disbursements as per said computation. Needless to state excess amount lying in deposit with the Commissioner, Workmen's Compensation after disbursement would be returned to the appellant. Similarly, if excess amounts have been disbursed to the claimants recovery would be made and the amount returned to the appellant.

11. No costs.