
(2000) 02 MP CK 0069
In the Madhya Pradesh High Court
Case No : M.A. No. 1069 of 1999

Paras Ram Soni

APPELLANT

Vs

Commissioner for Workmen's Compensation

RESPONDENT

Date of Decision : 18-02-2000

Acts Referred:

Workmens Compensation Act, 1923 — Section 30

Citation : (2000) 2 ACC 421 : (2000) 85 FLR 615 : (2000) 2 LLJ 752

Hon'ble Judges : A.M. Sapre, J

Bench : Single Bench

Advocate : R. Pandit, for the Appellant;

Final Decision : Dismissed

Judgement

A.M. Sapre, J.—This appeal is filed u/s 30 of Workmen's Compensation Act, 1923, questioning the legality and propriety of as many as three orders in succession namely Order dated July 4, 1996, Order dated April 21, 1999 and order dated June 28, 1999, passed by the learned Commissioner Workmen's Compensation (Labour Court, Ujjain) in case No. 7/90, case No. 3/98 and case No. 18/99. Facts necessary for the disposal of this appeal need mention in brief.

2. Respondent No. 2 filed a claim before the Commissioner, Workmen's Compensation against the appellant (herein) claiming compensation for the injuries he suffered during the course of and arising out of an employment. It was alleged that on June 5, 1989, while the respondent was on duty working on the tractor trolley No. MOU- 5861, belonging to appellant, he suffered injuries on his body. He alleged that he was in the employment of appellant on a monthly salary of Rs. 500. He claimed a sum of Rs. 10,000 by way of compensation as per the provision of Workmen's Compensation Act.

3. The appellant contested the claim, and filed reply. He denied the allegations and contended that a false case has been filed.

4. The learned Workmen's Compensation Commissioner framed issues arising

out of pleadings. The respondents led evidence whereas the appellant did not lead any evidence. Eventually, by impugned award dated July 4, 1996 the Commissioner allowed the claim of the respondent and awarded the sum of Rs. 10,000 together with interest and penalty.

5. On December 26, 1998 (i.e. after about two years) the appellant filed an application before the Commissioner seeking to set aside the aforesaid award (July 4, 1996) inter alia on the ground that it was an ex parte award passed against the appellant. According to appellant he was notified of change of address of place where the office of Court was shifted. This application was registered as separate case bearing No. 3/98 non fatal. By order dated April 21, 1999 the Commissioner dismissed the application by very well reasoned order. The appellant who was still not satisfied filed yet another application. This time it was review of order dated April 21, 1999. This application was registered as claim case No. 18/99 W.C.F. (Mis.). The Commissioner by its order dated June 28, 1999 was pleased to even reject this application.

6. It is then, the appellant filed the present appeal and challenged all the aforementioned three awards/orders i.e. July 9, 1996, April 21, 1999 and June 28, 1999 in this appeal.

7. Heard Ms. R. Pandit, learned Counsel for appellant. Respondent though served are not represented.

8. Having heard the learned Counsel for the appellant I am of the view that this appeal must be dismissed for manifold reasons which prima facie appear on its face. Indeed in my opinion, filing of appeal is nothing short of abusing the process of law. Firstly, the appellant ought to have filed three separate appeals in challenging three orders. Merely because these orders emanate from one case by itself does not invest the appellant to file one appeal and challenge all the three orders in one. The rules relating to appeal have been just ignored both by the appellant as also by the office of this Court. It is not a procedural aspect alone. It has its own importance. It has a co-relation with the plea of limitation, as also the payment of Court fees. In any case, the appellant has to then seek permission of this Court to file one appeal against the three orders. It is only when this Court grant permission then the appellant has to pay Court Fees on the memo of appeal as if he has filed three appeals. The appellant has not done anything in this appeal and has just casually filed the appeal challenging all the three orders in one appeal. That apart the appeal suffers from yet serious legal error which again remained unnoticed. The appellant has questioned the legality of award dated July 4, 1996 which holds the appellant to be an employer of the respondent and direct him to pay a sum of Rs. 10,000. Proviso to Section 30 of the Act in terms provides that no appeal can be filed by the employer unless he deposits awarded amount first with the Commissioner of Workmen's Compensation and enclose Certificate to that effect showing the deposit having been made. In other words, prerequisite to file an appeal u/s 30 ibid is to first deposit the awarded sum in the office of Commissioner Workmen's

Compensation then only the case be filed in the High Court. Even the appeal is entertainable on the substantial question of law arising out of an impugned award.

9. I am constrained to observe that aforementioned glaring infirmities both procedural as well as statutory were just ignored by the appellant while filing and prosecuting the appeal. This by itself is sufficient for me to dismiss the appeal.

10. The submission of learned Counsel for the appellant that because the award in question was ex parte and secondly, the appellant was not the employer and hence he had a right to file an appeal even without depositing the awarded sum has no force, and is rejected. The very fact that the award is passed against the appellant holding him to be an employer is enough for attracting the proviso of Section 30 of the Act. The question whether appellant is rightly held to be an employer or wrongly held as urged by the appellant can be examined in appeal only when it is filed in conformity with the requirement of Section 30 *ibid*. Since, the appellant has not complied with the requirement of Section 30 at the time of filing of appeal, the same is held to be not maintainable and is accordingly dismissed on this short ground.

11. That apart, the appeal does not involve any question of law arising out of any of the three orders. It is obligatory upon the appellant to make out substantial question of law in every order appealed against, in case, if he wanted to get rid of the order. Perusal of appeal memo does not even show that the appellant has mentioned any substantial question of law. Except to raise three and four ordinary grounds, the appeal memo does not mention anything. This is yet another ground to dismiss the appeal though, in view of aforesaid finding recorded against the appellant, it is really not necessary to delve into this aspect of the case.

12. The appeal is filed beyond the period of limitation. The award is dated July 4, 1996. The appeal is filed on November 24, 1999. Nothing prevented the appellant to file the appeal after the award dated July 4, 1996 was passed. The appellant could as well make an application in the Court of Commissioner for its setting aside and at the same time the appeal could be filed. The limitation to file is not arrested only because the application to get rid of award is pending before the Commissioner. Even that application was filed after two years. In my opinion, the whole thing was nothing but abusing the process of law in avoiding the execution of award.

13. In view of aforesaid detailed discussion, the appeal is dismissed. As a consequence, the interim order staying the execution of award also stands vacated.