
(1986) 07 MP CK 0010

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 344 of 1983

President, Iron Ore and Mining Works Cooperative Society

APPELLANT

Vs

Mungai Bai and Others

RESPONDENT

Date of Decision : 30-07-1986

Acts Referred:

Workmens Compensation Act, 1923 — Section 12, 30

Citation : (1987) ACJ 546

Hon'ble Judges : Gulab Chand Gupta, J

Bench : Single Bench

Advocate : A. Awasthy, for the Appellant; H.B. Agarwal, for the Respondent

Final Decision : Dismissed

Judgement

G.C. Gupta, J.—This appeal filed u/s 30 of the Workmen's Compensation Act is by the contractor who has been held liable to pay compensation on account of death of Aatmaram. The Respondent Nos. 1 and 2 claiming to be the widow and daughter of deceased Aatmaram filed an application for awarding compensation which has been allowed by the Commissioner for Workmen's Compensation, Durg by its order dated 8.8.1983.

2. There is no dispute that deceased Aatmaram was an employee of the Appellant who had reported for work on the date of accident. The defence of the Appellant was that said Aatmaram left his place of working during noon and was going towards his home. It was also the defence that he unauthorisedly got over the truck and met with an accident near the Wrist Bridge. Learned Judge relying on oral evidence on record held that Aatmaram died on a service road within the premises of the mine while walking towards his residence. He also found that Aatmaram was not riding the truck, as alleged. Applying the principle of notional extension of employer's premises learned Commissioner awarded the compensation.

3. The only submission of the learned Counsel for the Appellant is that the

accident had taken place at a distance of 3 miles from the place of the duty of the deceased Aatmaram and therefore the accident cannot be said to be arising out of and in the course of his employment. There is hardly any substance in the argument. It is not in dispute that the accident happened at the service road provided by the Respondent No. 3 and within the mining area. It is true that the Appellant was a contractor and responsible for raising iron ore in a part of the mine but that by itself is not sufficient to divide the mine into different pans and treating those parts as independent for purposes of the Act. Section 12 of the Act makes the principal employer liable for such an accident and entitles the victim to the compensation payable under the Act from the employer. Since the accident had happened on service road used exclusively by the employees the Commissioner acted within its jurisdiction in applying the theory of notional extension of employer's premises. The decisions in General Manager B.E.S.T. Undertaking v. Agnes 1958 ACJ 473 (SC) and of this Court in Public Works Department v. Kausa 1967 MPLJ 709 , fully support the aforesaid conclusion.

4. In this view of the matter there is no substance in the appeal which is dismissed with costs. Counsel's fee Rs. 100/- payable to Respondent Nos. 1 and 2.

5. Since the amount had been deposited and the same has been directed to be kept in deposit vide orders of this Court dated 18.2.1985 the said order is hereby vacated and the payment shall now be made to the Respondent Nos. 1 and 2.