

(1998) 08 KAR CK 0061

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 1871 of 1987

Smt. Ananthamma

APPELLANT

Vs

The Managing Director, Co-operative Spinning Mills Limited,
Raichur

RESPONDENT

Date of Decision : 04-08-1998

Acts Referred:

Workmens Compensation Act, 1923 — Section 3

Citation : (1999) 1 ACC 328 : (2000) ACJ 166 : (1999) 81 FLR 260 : (1999) 1 KarLJ 356 : (1999) 1 LLJ 1053

Hon'ble Judges : Mohamed Anwar, J

Bench : Single Bench

Advocate : Sri R.A. Shiraguppi, for the Appellant; Sri B.C. Prabhakar, for the Respondent

Judgement

1. Appellant is the widow of the deceased Ramulu, who has preferred this appeal against the order of the Commissioner for Workmen's Compensation dated 14-11-1985 made in Case No. WCA/F-4/81-82 dismissing her application for grant of compensation under the Workmen's Compensation Act, 1923 ("the Act" for short).

2. It is not in dispute that appellant's husband late Ramulu was employed and was working as a Realer in the Spinning Mill of respondent 1, On 8-12-1979 at 8,45 a.m. when he was attending his work as such in the factory premises his co-worker [Ramesh] S/o Bhaskar heard voice of the deceased saying "Ham". Then, Suresh sensed the danger in the health condition of the deceased. Therefore, with the permission of the in charge shift officer of respondent 1-factory, he took the deceased along with him to the City bus stop at Hubli to take him to the Hospital. While they were waiting for a bus at the said bus-stop, the deceased once again gasped his breath saying "Ham" and collapsed there. Thereafter, appellant gave an application to the Commissioner for grant of compensation.

3. During enquiry, the statements of Suresh and of the claimants were recorded by the Commissioner. The defence of respondent-employer before the Commissioner was that the death of the deceased was not due to any injury caused to him during the course of the employment.

4. In the light of relevant material brought on record during enquiry, the defence of respondent 1 was upheld by the Commissioner and the claimant's application was rejected by him by his impugned order.

5. Indisputedly, there is not an iota of material placed on record from the claimant's side even remotely suggesting that any injury of whatever nature was caused to the workman Ramulu while he was attending his duty in respondent 1-factory, much less, the personal injury resulting in his death. Section 3 of the Act creates liability of the employer for payment of compensation to his workman in respect of the injury caused to him in the course of the employment. The material portion thereof reads.-

""3. Employer's liability for compensation.-

(1) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this chapter:

Provided that. . . .",

The plain reading of this material provision sub-section (3) makes it crystal clear that an employer's liability to pay compensation to a work- man arises only if the personal injury is caused to the workman by accident arising out of and in the course of his employment. In the instant case it is nobody's case that any personal injury was caused to the deceased or that any injury was caused by an accident occurred while he was discharging his duty in the course of his employment. On the other hand the circumstances in which the deceased breathed his last are clearly indicative of the fact that he died of heart failure. Therefore, no fault could be found with the impugned order of the Commissioner.

6. Hence, the appeal is dismissed.

Parties to bear their own costs.