

(2010) 03 KAR CK 0078

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 8584 of 2008

Smt. Baby and Others

APPELLANT

Vs

Smt. Sheela Jalan and Another

RESPONDENT

Date of Decision : 02-03-2010

Acts Referred:

Citation : (2012) ACJ 869 : (2010) 126 FLR 386 : (2010) 3 KarLJ 131

Hon'ble Judges : V. Jagannathan, J

Bench : Single Bench

Advocate : Jeevan K, for the Appellant; Ganesha R., for Nataraj Ballal and B.C. Seetharama Rao, for the Respondent

Final Decision : Dismissed

Judgement

V. Jagannathan, J.—This appeal is by the claimants before the Commissioner for Workmen's Compensation aggrieved by the dismissal of their claim application.

2. It was the case of the appellants before the Commissioner that on 19-1-2003, when the husband of the first appellant viz., Krishna Shetty, had stopped the vehicle near Talapadi Petrol Bunk and had gone to attend the nature's call, he suddenly fell down and died. Stating these facts and also contending that the deceased was employed by respondent 1 as a driver for Rs. 4,500/- per month as salary, compensation was sought.

3. The said application was resisted by the respondent before the Commissioner by contending that, 19-1-2003 happened to be a Sunday and on that day, the deceased was having holiday and, therefore, some other driver was asked to take the tanker on the next day i.e., 20-1-2003. The further stand taken before the Commissioner by respondent 1 was that, Krishna Shetty went home and there he died.

4. The Commissioner for Workmen's Compensation, in the light of the contentions taken before him and after appreciating the material placed and the evidence of respondent 1-owner of the tanker, came to the conclusion that the

claimants had failed to establish that the death of Krishna Shetty was on account of any injury or strain caused while working as driver of the tanker on 19-1-2003. The Commissioner also opined that from the documents produced by the claimants, especially Exs. R. 1 and R. 2, it was also possible to draw the inference that the death of Krishna Shetty was natural one. Therefore, the claim petition was ultimately dismissed.

5. Having heard the learned Counsel for the appellants and the learned Counsel for the Insurance Company as well as the learned Counsel for respondent 1 and on a perusal of the material placed, it is noticed that the claimants did not place any evidence to show as to what was the cause of death of Krishna Shetty. Secondly, there was also no evidence placed to indicate that on account of the injuries sustained by the deceased while driving the vehicle on 19-3-2003, that the death had occurred. No post-mortem report was also placed before the Commissioner to know the cause of death of Krishna Shetty.

6. In the light of all these factors and the evidence of the tanker owner Ravi Jalan also not being discredited in the cross-examination, on the whole, the material placed led the Commissioner to draw the conclusion that the claimants had failed to establish that the death of Krishna Shetty was on account of an accident arising out of and in the course of employment. In the face of the said finding of the Commissioner, which cannot be termed as perverse, I do not see any substantial question of law arising for consideration.

7. The appeal, therefore, stands dismissed.