

(2001) 03 KAR CK 0018

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 2045 of 1999

Smt. Laxmibai and Another

APPELLANT

Vs

The Manager, Vijayanand Roadlines Limited and Another

RESPONDENT

Date of Decision : 14-03-2001

Acts Referred:

Workmen Compensation (Amendment) Act, 1995 — Section 4, 4 A

Citation : (2001) 3 KCCR 1543

Hon'ble Judges : Chandrashekaraiah, J

Bench : Single Bench

Advocate : P.G. Upanal and H.N. Kasal, for the Appellant; N.S. Murthy and Somashekar for Respondent 1 and K. Suresh, for Respondent 2, for the Respondent

Final Decision : Dismissed

Judgement

Chandrashekaraiah, J.—The appellants are the claimants before the Commissioner for Workmen Compensation claiming compensation for the accident occurred to one Suresh Ghodke son of first appellant and husband of second appellant.

2. The only contention raised by the learned Counsel for the appellants in this appeal is that the appellants are entitled for compensation as per the amendment Act introduced in the year 1995 to the Workmen Compensation Act, 1923 (hereinafter referred to as Act). The Commissioner taking into consideration that the death is prior to the amendment Act has awarded the compensation in accordance with law that was prevailing as on the date of the accident. Learned Counsel for the appellant submitted that the Commissioner is not right in awarding compensation under the unamended Act in view of the decision reported in United India Insurance Company Limited, Bangalore Vs. Venkataraju and Another, This Court in the above said decision has held that the amendment introduced by substituting the word "Rs. 2,000/- in place of Rs. 1,000/- is per se a part of the procedural law and evidence and therefore, it is

retrospective in operation. But, the Supreme Court in case of Kerala State Electricity Board and Another Vs. Valsala K and Another, has held the contrary. The question that was considered by the Supreme Court in this case is; whether the amendment of Sections 4 and 4A of the Workmens Compensation Act 1923 made by Act No. 30 of 1995 with effect from 15.9.1995 enhancing the amount of compensation and the rate of interest, would be attracted to cases where the claimants in respect of death or permanent disablement resulting from an accident caused during the course of employment, took place prior to 15.9.1995? The said question has been answered by the Supreme Court accepting the view expressed by the Full Bench of the Kerala High Court as follows:

It took the view that the injured workmen becomes entitled to get compensation the moment he suffered personal injuries of the types contemplated by the provisions of the Workmen Compensation Act and it is the amount of compensation payable on the date of accident and not the amount of compensation payable on account of the amendment made in 1995, which is relevant.

In view of the above said decision of the Supreme Court, the law declared by this Court in United India Insurance Company Limited, Bangalore Vs. Venkataraju and Another, is no longer a good law.

3. Therefore, the Commissioner is right in applying the law that was prevailing as on the date of death for the purpose of quantifying the compensation.

4. In the result, I pass the following order:

Appeal is dismissed.