

(2000) 09 KAR CK 0014
In the Karnataka High Court
Case No : Writ Petition No. 28006 of 2000

Smt. Puttalakshmamma

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 18-09-2000

Acts Referred:

Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 — Section 100, 112
Penal Code, 1860 (IPC) — Section 279, 304 A

Citation : (2000) 4 KCCR 2802

Hon'ble Judges : Mohamed Anwar, J

Bench : Single Bench

Advocate : B.S. Nagaraj, for the Appellant; B.H. Satish, High Court Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

Mohamed Anwar, J.—Heard the arguments of the learned Counsel on both sides.

2. The unfortunate Petitioner Smt. Puttalakshmamma, widow of deceased Venkatesh alias Ramakrishna of Rangaina Koppal Village of Hunsur Taluk, Mysore District had been repeatedly knocking the doors of this Court for suitable direction to the Respondent-authority to pay her the compensation under the "Raitha Sanjeevini Accidental Insurance Scheme" promulgated under Clause (g) of Section 112 of the Karnataka Agricultural Produce Marketing Regulation Act, 1966 ("the Act" for short), on account of the accidental death of her husband who admittedly died on 13.4.1999, in Manugahalli Village of Hunsur Taluk in Mysore District, while tilling the land by driving Tractor-cum-Trailer.

3. The said Agricultural Marketing Board ("the Board" for short) contemplated under Chapter IX of the Act has been duly constituted by the State Government, as envisaged by Section 100 of the Act. Section 112 of the Act enumerates the functions of this Board. One of its function relevant for our present purpose stipulated in Sub-clause (g) thereof reads thus:

(i) the Board shall, subject to the provisions of this Act, rules and regulations made thereunder, discharge the following functions and shall have power to do all such things as may be necessary or expedient for carrying out its functions, namely-

(g) to arrange for safety insurance on the life of farmers and if necessary to contribute towards the premiums payable in respect of all agriculturists in the State;

For giving effect to this provision for the benefit of the farmers, the said Insurance Scheme was promulgated under Government Order No. CMW/5/MRE/97, dated 14.3.1996 followed by amended Order No. CMW/7/MRE/97, dated 1.4.1997 and the scheme was brought into operation with effect from 1.4.1997. Families of the farmers who become victims of death or suffering bodily injuries as a result of accident taking place in the areas or in the premises of the "main market" or "marketing sub-premises". Rule 4 of this Scheme lays down maximum insurance amount payable thereunder on account of death of the farmers or on account of physical handicap suffered by them due to accident. Various scales of compensation are provided in this regard in a tabular form which is extracted below:

Sl.No.	Particulars	Maximum Insurance Amount (Rs.)
1.	Death occurred	25,000.00
2.	Loss of both hands or both legs	15,000.00
3.	Loss of both eyes	12,000.00
4.	Loss of one hand or one leg	7,500.00
5.	Loss of one eye	6,000.00
6.	Loss of fingers in hand or leg. For each finger	1,500.00
7.	Waist cutting	15,000.00

4. Regulation-6 of the scheme provides for mode to make application for compensation and it reads:

6. MODE OF FILING APPLICATION.-In case of incapacity the person so affected or in case of death the successors are eligible to apply. Application is to be submitted to the Agriculture Produce Market Committee of his area where death/incapacity occurred, with relevant documents and photograph of the application within sixty days from the date of accident.

5. In the instant case, it is an admitted fact that Petitioner's husband died on 13.4.1999 when the Tractor-cum-Trailer which he was driving in the said land for the purpose of its tilling turned turtle and fell upon him causing the spot death. On a complaint of one Chaluvegowda, said to be the supervisor of the said land, a case in Crime No. 91 of 1999, dated 13.4.1999 was lodged by the jurisdictional police of Bilikere, Bilikere Circle, Hunsur Taluk, under Sections 279 and 304-A Indian Penal Code and in the course of their investigation, the dead body of the victim was subjected to post mortem examination of a Government Medical Officer on 14.4.1999. The deceased was shown to be aged about 34 years in the Post Mortem report, the copy whereof was shown to the Court by the learned Counsel for Petitioner.

6. Subsequently, on 26.7.1999, an application for compensation under the said scheme was made by the Petitioner to Respondent No. 3-Secretary of the

concerned APMC, Hunsur. Since that application was made beyond the limitation period of 60 days which was prescribed under Regulation-6 of the said Scheme, the same was rejected by Respondent No. 3 on the ground of delay by his order dated 6/7.8.1999. That order of Respondent No. 3 was challenged by the Petitioner in Writ Petition No. 207 of 2000. That writ petition came to be disposed of by this Court by its order dated 14.1.2000 directing the Petitioner to submit her appeal-petition against the said impugned order of Respondent-3, along with the necessary documents etc., within thirty days to Respondent-2-the Director of Department of Agricultural Produce, Bangalore, for his final decision in terms of Regulation-8 of the said Scheme. Accordingly, the appeal-petition against the said order of Respondent-3 was made to Respondent-2 by the Petitioner. Thereupon, the impugned order vide Annexure-A dated 27/28.6.2000 came to be passed by Respondent-2 affirming the said order dated 26.7.1999 made by rejecting her application.

7. Learned Counsel appearing for Petitioner Mr. B.S. Nagaraj argued assailing the validity of the impugned orders of Respondent-2 and Respondent-3 on the ground that the said application ought not to have been rejected simply on the ground of 44 days delay when sufficient explanation for the delay was given by the Petitioner in her affidavit vide Annexure-B as due to ill health and mental shock and agony suffered by her because of untimely accidental death of her husband.

8. Per contra, Mr. B.H. Satish, learned High Court Government Pleader representing Respondents 2 and 3, argued in support of the impugned orders stating that there being no provision in the scheme conferring any power on the Respondents to condone the delay caused in making the said application, the same could not be considered and condoned by them, and therefore, the Petitioner's application has been rightly rejected by these authorities.

9. It is needless to state that a vast portion of our country comprises of the rural part and the bulk of Indian population ekes out its livelihood by agriculture and/or by dealing and trading in agricultural produce. Most of the farmers and workers in the lands in the rural part of India are rustic people who generally remain ignorant of many of the beneficial Schemes framed or made by the Central Government/State Governments for their welfare. One such scheme is the said "Raitha Sanjeevini Accidental Insurance Scheme" made u/s 112(g) of the Act providing insurance security for the farmers or their families in the State of Karnataka in the event of their falling victims to unforeseen accident while engaged in various activities of agricultural operations and in marketing of agricultural produce. Unless and until such physically handicapped victims of accident or the ignorant dependents of the deceased victims are made known of the existence of such beneficial schemes, naturally they would not be in a position to approach the concerned authorities seeking compensation or benefits thereunder. Therefore, mere absence of a provision providing for condonation of delay in making of application under Regulation-6 of the Scheme, for just and

sufficient cause, cannot be technically construed as valid justification to deprive the person (applicant) of his/her otherwise rightful and legitimate claim; and as excluding the inherent power of the authority under the Scheme to meet such a claim by condoning the delay in appropriate cases in furtherance of its object. As a matter of course, there should have been an express provision in the scheme empowering the concerned authority under it to condone the delay in appropriate cases. In the context, however, to give full effect to said Scheme and to avoid failure of justice existence of such inherent power in the concerned authorities will have to be necessarily presumed. In the absence of such presumption, obviously quite a large number of deserving cases under the Scheme would be left in lurch making it a dead letter for them. One such suitable case for condonation of delay in making an application for compensation under the scheme is the one on hand in which the applicant is a widow and an illiterate village woman. She lost her husband at the prime of her life, he being aged about 34 years when he died. The mental shock and agony sustained by her on account of loss of her consortium was naturally unimaginable and irreparable. This circumstance alone was enough for the authorities to consider it as sufficient cause to condone the delay of about 44 days occurred in making of her application. Therefore, the impugned orders of Respondents 2 and 3 rejecting her application solely on the ground of delay, made totally ignoring this natural cause for the delay cannot at all be sustained in law since such a course is apparently violative of principles of natural justice. Therefore, the petition is entitled to succeed.

10. However, before parting with this order, the Court cannot but take notice of the grossly inadequate and dismally low compensation amounts provided to the victims of accidents or their dependents as indicated in the said table under Regulation No. 4 of the Scheme. The table 4 shows that the sum of Rs. 25,000/- only is provided as the insurance amount in case of death; Rs. 1,500/- in case of loss of both hands or legs of the victim; Rs. 12,000/- for loss of both eyes; Rs. 7,500/- for loss of one hand or one leg; Rs. 6,000/- for loss of one eye; Rs. 1,500/- for loss of each finger of hand or leg and Rs. 15,000/-, if the waist of the victim is broken. These meagre figures of social security amount tells on one's face that the whole Scheme is nothing but a mere pittance and farcical which seems to have been a mere eye-wash formulated by the Government just to make a show of conferring certain gratis for the loss of human life or for irreparable suffering of an individual farmer on account of serious physical handicaps sustained in any accident stipulated under the Scheme. To make the Scheme truly vibrant and beneficial as a laudable measure of substantial succour to the physically disabled farmers who become victims of accident or their hapless dependents when their death is caused as a result of such accidents, in its letter and spirit, it is high time that the Government or the concerned Authority should review and recast the said scale of meagre amounts of insurance enhancing the same reasonably to the appropriate level commensurate, as far as possible, with the human labour and the values of

human dignity. The Court will hope that without unnecessary loss of time, the Government will surely do the needful in this regard in the best interest of the farmers and their families living in various market areas of the State.

11. In the result, the petition is allowed. The impugned order at Annexure-A dated 26.6.2000 bearing No. Karakru.ma.mum/1147-50 of 2000-01 dated 27/28.6.2000 of Respondent No. 2 is set aside. Consequently, the order dated 6/7.8.1999 of Respondent-3 is also set aside. The delay that was caused by the Petitioner in filing of her application before Respondent-3 claiming insurance amount under the "Raitha Sanjeevini Accidental Insurance Scheme" is hereby condoned; and that application is hereby remitted to Respondent-3 with a direction to entertain the same and dispose it of on its merit within sixty days from the date of communication of this order.

12. Mark a copy of this order to the concerned Secretaries of the Government mentioned in the counter of learned Mr. High Court Government Pleader filed for Respondent-1 and Respondent-2 for their immediate needful measure in deference to the observation made at Paragraph-10 hereinabove.