
(2000) 03 MP CK 0063
In the Madhya Pradesh High Court
Case No : M.A. No. 1988 of 1999

South Eastern Coal Fields

APPELLANT

Vs

Sukrita Bai and Another

RESPONDENT

Date of Decision : 27-03-2000

Acts Referred:

Workmens Compensation Act, 1923 — Section 30

Citation : (2000) 86 FLR 377 : (2000) 2 LLJ 1219

Hon'ble Judges : Vijay Kumar Agrawal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

V.K. Agrawal, J.—This Misc. Appeal is directed against the award dated May 26, 1999 in Case No. 19/W.C.A.92 (F) by Commissioner for Workmen's Compensation Labour Court, Bilaspur, whereby an award of Rs. 62,588 on account of death of Narayan Das, the workman of the appellant has been granted.

2. The respondents, the Legal representatives of the deceased workman filed an application before the Commissioner for Workmen's Compensation, claiming compensation on his death arising out of and during the course of employment with the appellant. The averments of respondents/ claimants were that while returning from duty on January 22, 1991 at about 7 p.m. the deceased met with an accident near the barrier of their village Deepika and died on account of injuries sustained.

3. The appellant/employer denied that the accident occurred while the said workman was returning from his duty. The appellant denied that he was liable for payment of compensation.

4. Learned counsel for appellant has urged that as the accident occurred at 7 p.m. on January 22, 1999 while the duty hours of the deceased were from 8 a.m. to 4 p.m., it could not have been inferred that the accident occurred during the course of the employment of the deceased. It was also submitted that the finding

of the learned Commissioner that the deceased met with an accident when he was returning from duty, is far-fetched and is based on mere conjunctures and surmises.

5. It would appear from the impugned award that the deceased resided at village Deepika which is at a distance of 16 kms. from the work place. His duty hours ended at 4 p.m. on the date of accident. There are about 350 to 400 workmen in the general shift, in which the deceased was working. The deceased was required to get the out entry entered in the relevant register alongwith other workmen. It was therefore observed by the learned Commissioner that all this might have taken about two hours and therefore the accident was in the course of his employment.

6. Learned counsel submitted that there is no material and justification to infer that getting the out entry and taking out the bicycle from the place of work would take about two hours.

7. Learned counsel for appellant also submitted that since the deceased had gone out of his work place, the employer would not be liable to pay compensation as the accident did not occur out of and in the course of his employment. However, it may be noted that the argument as above was not raised before the Commissioner for Workmen's Compensation. If the deceased workman was returning from the duty and the accident occurred while he was so returning, the accident would be treated as arising out of the employment or in the course of his employment. The contention as above therefore cannot be accepted.

8. It may also be noted that indisputably the accident occurred at Deepika barrier, which is one way from the work place of the deceased workman to village Deepika. It has not been shown that the duration after the duty hours were over and the accident took place was so much, that the deceased cannot be said to have been returning from duty. Even if the deceased for some reason was detained for a short time, on way to his home after the duty, it would not absolve the appellant/employer from the liability to pay the amount of award.

9. In view of above, the finding of the learned Commissioner that the accident arose in the course of employment of deceased workman, on appreciation of facts and circumstances of the case, calls for no interference. As no substantial question of law is involved in this appeal, the same is dismissed without notice to the respondent.