

(1988) 06 KL CK 0010
In the High Court Of Kerala

State of Kerala

APPELLANT

Vs

Khadeeja Beevi

RESPONDENT

Date of Decision : 30-06-1988

Acts Referred:

Employees Compensation Act, 1923 — Section 2

Citation : (1989) ACJ 332 : (1989) 2 LLJ 438

Hon'ble Judges : K.S. Paripoornan, J;Balakrishnan, J

Bench : Division Bench

Judgement

Paripoornan, J.—Opposite party No. 1 and 2 (State of Kerala and Divisional Forest Officer, Thenmalai) in W.C.C. 1/1987, Commissioner for Workmen's Compensation, Quilon (in short the Commissioner) are the appellants herein. The sole respondent in this appeal was the applicant in W.C.C. 1/1987. The applicant's husband Abdul Khadir was a mahout. He was a Government employee. On 18th July, 1985 he was attacked and injured by an elephant. He died on 20th July, 1985 as a result of the injuries sustained by him in the course of and arising out of his employment. The applicant stated that Abdul Khadir was aged 42 at the time of his death, and that he was drawing a monthly wages of Rs. 900/-, She claimed a compensation of Rs. 60,394/- from the opposite parties. The opposite parties admitted that Abdul Khadir (appellant's husband) was employed as a mahout in the Forest Department and that he died on 20th July, 1985 due to the attack of an elephant. However, it was argued that the deceased was a regular Government employee who was covered by family pension, general provident fund and family benefit schemes of the State Government and so he cannot be deemed to be a workman as defined in Section 2(1)(n) of the Workmen's Compensation Act, 1923. The Commissioner held that Abdul Khadir was a workman as defined in Section 2(1)(n) of the Act. He further found that the injuries caused to Abdul Khadir on 18th July, 1985, which resulted in his death was in the course of and arising out of employment. The monthly salary of the deceased was fixed at Rs. 828/- at the age of 42 years. On this basis, the compensation was worked at Rs. 59,115/- payable by the 1st opposite

party, D.F.O. Thenmalai. The opposite parties have come up in appeal.

2. We heard learned Government Pleader, who appeared for the appellants, as also counsel for the respondent. Learned Government Pleader conceded that deceased Abdul Khadir was a Government employee, a mahout, and that he sustained serious injuries when he was attacked by an elephant on 18th July, 1985, which ultimately resulted in his death on 20th July, 1985. On a perusal of the relevant facts in the case, we have no doubt in our mind that the death of Abdul Khadir arose out of and in the course of his employment under the appellants. The only question seriously pressed before us was that the deceased Abdul Khadir, being a Government servant, cannot be considered to be a workman within the meaning of Section 2(1)(n) of the Act. We are of the view that this contention is without substance. Section 2(1)(n) of the Act taken along with Schedule II, item (xxii) states that persons employed in the training, keeping or working of elephants or wild animals are workmen within the meaning of Section 2(1)(n) of the Act, In the light of Schedule II, item (xxii), it is futile to contend that deceased Abdul Khadir was not a workman employed by the appellants. On this short ground the only plea of the appellants fails.

3. No other point was argued before us.

The Commissioner was justified in awarding the compensation as he did. We see no reason to interfere in this appeal. The appeal is dismissed with costs.