

(1984) 10 RAJ CK 0016

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 10 of 1977

State of Rajasthan and Another

APPELLANT

Vs

Rameshwarlal and Smt. Munni Bai

RESPONDENT

Date of Decision : 22-10-1984

Acts Referred:

Constitution of India, 1950 — Article 14, 226
Employees Compensation Act, 1923 — Section 30

Citation : (1985) 1 WLN 449

Hon'ble Judges : G.M. Lodha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

G.M. Lodha, J.—A brutal, shameless, daylight rape on "social and substantial justice" by none else but the State, is the genesis, of this "frivolous and vexatious" appeal.

2. A poor homage to social justice is well depicted by this appeal where "mighty State" has filed this frivolous appeal against the unfortunate parents of Babulal, the workman who died in harness on 16th October, 1975. The socio-economic pragmatic approach exhibited by labour laws, expressly provides for compensation. It is customary and traditional for the State or its functionaries, on such occasions to act on humanitarian grounds and grant ex-gratia monetary relief to the deceased's family. But as an antithesis and anticlimax of it, the State contested the claim of compensation first. To add fuel to fire, when awarded, it has challenged it now by invoking, in an appeal u/s 30 of Workmen Compensation Act, appellate jurisdiction, for a most unequitable relief, depriving the deceased's family of this token monetary relief also, when the parents have been deprived of their son by cruel fate.

3. With the above preface, which is the outcome of an instantaneous and spontaneous reaction of the judicial conscious of the Court; wedded to "social and substantial justice", by acting as "watch dogs" of the Constitution; let me

now narrate the facts of the present case.

4. The workman was going in a tractor trolley of Public Works Department for performing his duties. The deceased workman wanted to pick up his tools from the octroi post where they used to be kept and, for that purpose, he tried to get down from the tractor but, in that process, he fell down and received injuries and, ultimately died in the hospital.

5. The Government department came out with a reply that though the deceased workman was working in temporary gang on the tractor of the Public Works Department, but, death occurred because he jumped from the tractor, giving impression as if he wanted to commit suicide. The Commissioner rightly held this defence to be frivolous and false and found that the fact was that the deceased got down from tractor and wanted to take and pick up tools where they were used to be kept and in that process he fell down as his foot slipped resulting in injuries and ultimately died.

6. Babulal, the workman died on account of these injuries while in employment and in the course of the employment and actually in the process of discharging his duties, as taking up tools and implements for doing construction work was his daily job.

7. The Workmen Compensation Act, 1923 provides only Rs. 13,500/- and that too after the amendment and this has been allowed by the Commissioner. Surprisingly enough, the State has filed this appeal.

8. Is this the respect shown by the State which in its directive principles have proclaimed that the workmen should get participation and share in the management and legal aid should be provided to the poor? In this the homage which this State is paying to the preamble of the Constitution which was made the "bed rock, and the "Gangotri" of the Constitution by "founding fathers".

9. A welfare State committed to ultimate objective of eradication of poverty and making a tall claim of providing utmost priority to protect, poor and down trodden has dragged the old aged parents of the workman, which exhibits a very sad and chaotic state of affairs, where not only mockery has been made of all the high sounding directive principles, but a day light rape is being committed by the State on the basic human rights of the poor, downtrodden, rule of law, directive principles, the fundamental rights and the elementary values and norms which are well established in this age, where every day emphasis is increasing on "social justice" and "substantial justice".

10. In Executive Engineer R.C.P. v. Smt. Rukmani RLW 1978 264, I had occasion to observe as under:

It is ingenuity of the State's Law Officers that it resulted in filing of the writ petition under Article 226 of the Constitution when they were advised by the advocate earlier that even the case is not worth filing appeal and in fact no appeal was filed."

...I have to mention that with the intention of making a grievance against the award of costs by the Workmen's Compensation Commissioner, to poor legal representatives of the unfortunate workmen who lost their lives in the Rajasthan canal, the State has increased the cost of filing this writ petition unnecessarily which at least could have been avoided.

In *Executive Engineer RCP v. Smt. Rukmani* (supra), I have observed that the labour legislation like Workmen's Compensation Act, Minimum Wages Act, Payment of Wages Act, Factories Act etc. all have been enacted for the socio-economic purpose of providing relief to the workmen and regulating their relations with their masters in the performance or desire. The compensations which are allowed to the workmen also are fairly low in, comparison to the compensation which are allowed by the railways and airlines in case of other accidents which is 50,000/-and rupees one lac respectively. I have also observed that the human life is the same whether one dies in harness while functioning as a workman in a factory or on a site or while travelling in Aeroplane or train. However it is not my domain to make any comment over it because it is exclusively for the legislature to legislate.

11. But, when counsel's fee is allowed ad valorem at a particular scale both in civil court and High court which sometimes runs into thousands and usually in hundreds, is it not a sad state of affairs that a workman or his legal representatives are not allowed reimbursement of the fees which they pay except Rs. 10/- or minimum Rs. 50/-. Though this again is the domain of the legislature or the rule making authority which is the Government, I do feel that since the State has filed this appeal, it must take a notice of this anomalous position also and if so advised, do the needful to put the lawyer's fees or costs in Workman Compensation cases at par with the civil courts and other courts. If the main intention was to provide protection to workman from charging of higher fees by counsel of the employers, the rule making authority is fully authorised to keep that in view and ensure that, also.

12. I had occasion to reiterate, whatever I have said and observed above earlier, while dealing with the quantum of compensation for a human life in *New India Insurance Co. v. Zor Kanwar and Ors.* (S.B. Civil First Appeal No. 59 of 1968 decided on 7th August, 1979), while expressing shock and surprise at the difference in approach to the human life by the State, violating equality of law and equal protection of law clause; I observed that, by contesting even bonafide and genuine claim of the dependents of deceased, who are overwhelmed with grief and sorrow on account of death of their family head, the Insurance Company adds to grief and misery and also spends good deal of time, energy and money which can be avoided and which also shakens the utility of insurance.

13. When the Airlines and Railways, give compensation of 1 lakh and Rs. 50,000/- respectively for the loss of human life by pure accidents, the scale of compensation is very meagre Workmen Compensation Act and other laws.

14. The life of a workman who dies in harness is in no way less valuable than a person going for a pleasure trip to enjoy "Honey moon" in Kashmir, in Aeroplane or train. Though technically Article 14 cannot be applied it is for the legislature to consider why equality of law and equal protection clause should not be applied in spirit also.

15. It is not only unfortunate again, a matter which requires prompt attention of the State as to why the poor people's money which forms the coffers of the public exchequer should be allowed to be wasted in such avoidable litigation. In addition to the wastage of money, the time of the court which is precious one and the Law Officers is wasted in filing such frivolous appeal. A situation will come when this Court may be compelled to direct the State Government to realise the entire costs from the officer concerned who sanctions filing of such frivolous applications, or appeals against a widow whose husband died while on duty for attending the construction work, or parents of young workman instead of respecting the observation of this Court in such cases, for refraining from it.

16. In the instant case, the workman was a "Beldar" "Beldar even amongst the workmen is lowest in the ladder. He works hard on road side, in scorching heat, intolerable chilly winter and that too, without any protection from any side except sky above and the earth below. Such being the pathetic plight of the poor Kamgar (labourer, workman), it is most tragic state of affairs for the State to persist on litigation instead of volunteering paying compensation to the widow.

17. In series of judgments, I have highlighted the view, that the Workmen Compensation Act and such labour legislations are to be construed in liberal manner in favour of the workmen, so that the poor, down trodden labourer, who is lowest in the ladder of the society and is always fighting for two square meal in a day, can get the speedy benefit and advantage of these beneficial socio-economic laws. If that is not done and the courts start picking up loopholes in workmen's cases, by microscopic examination of technicalities by cutting that t's and dotting i's enforcing technical rules of pleadings, it would not only be great injustice to the preamble, directive principles and fundamental rights enshrined in the Constitution but it would be reducing them to ridiculous state of becoming words of platitudes high-sounding mottos only to be kept in the closed shelves of the libraries, without having any intention to implement them or enforce them.

18. In a welfare State, a liberal interpretation, free from technicalities in favour of Kamgar, i.e., Majdoor would really accomplish the human and socio-economic purpose of legislation, which have been made and enacted for the economic need of emancipation of labour from exploitation.

19. This recognition and requirement of the Constitution is writ large on the street walls, in every workmen's colony, where half-naked, half-starved people live mostly on earth, below roof of the sky, having shabby, dirty unhygienic stinking road side or payment space, hardly enough to stretch and release the

tension of the bones of the body, which have worked day and night in sun, winter and rains, around furnace, canal waters, dams & roads bridges and factory with all perspiration and faulting and failing respiration, with the sole inspiration to somehow provide half or at least one time meal of the weeping and crying children and family members who wait for him restlessly. A generous humanitarian approach is therefore needed both by the Courts & the State in implementation of such labour welfare legislations for giving the relief speedier and cheaper.

20. It is of utmost, importance, that neither the State nor judicial or quasi-judicial officer, should treat, such cases as cases of contracts or mortgages, pre-emption or the easements, but appreciate the legislative intent to provide relief to the poor, down trodden labourers and workmen. For that, the only anxiety of the Court should be that substantial justice, real justice, speedy justice and effective justice should be imparted and administered to them and no technicalities or rules of procedure should come in the way. If that is not done, the very object of such labour welfare legislation would be defeated.

21. The present case is classical example of the negation of all, what I have said above. The welfare State functionaries never thought that a Beldar who was coming to his daily job and when he wanted to pick up his tools from the octroi post where they used to be kept and for that purpose, tried to get down from the tractor but in that process, fell down and died on account of injuries sustained. And, apart from humanitarian consideration which there should have been in such cases, even the legal and legitimate benefit of compensation was not offered to the deceased workmen" family.

22. The State-appellant functionaries did not only pay compensation voluntarily but put impediment in its determination before the Workmen Compensation Commissioner by putting all legal and technical defences, re-enacting "Merchant of Venice" of Shakespeare where Portia put the classical defence, "not a drop of blood". They challenged that he died while on duty and then they put up frivolous defence that, death occurred because the workman jumped from the tractor giving impression as if he wanted to commit suicide. When the defence of the State was found to be untenable, frivolous the compensation was awarded along with structures, appeal has been filed.

23. Such a questionable conduct of the State functionaries, who are reasonable for filing this frivolous appeal deserve certainly to be deprecated as they forgot the law repeatedly laid down by this Court and the Supreme Court in such matters and forgot the very beneficial and liberal approach which is required to be made in such cases. Those who forget such important constitutional mandates, writing on the walls, legislative pronouncements and the rule of law and further wants to have this luxurious litigation, at the cost of weeping children and cries of a gong of a family of workman deceased, cannot be forgiven and should not be forgiven.

24. Such avoidable wasteful litigation which helps none and destroys very foundation of welfare State, socio-economical legislation, further wastes the valuable time of the courts by depriving the thousands of needy litigants who are standing in the queues for the last more than one decade, cannot be entertained. I have invited the attention of all the litigants, State and the judiciary on compelling need of the day for avoiding such avoidable litigations in the following words, earlier in *Miss Bharati v. State of Rajasthan* (S.B. Civil Writ Pet. No. 770/1978 referred to on D.B. on Jan. 2, 1979) and in *Manzoor Ahmed v. Regional Transport Authority Kota* 1979 WLN 310.

....The Parliament must have intended to oust and exclude the cases of "academic interest" only so that the precious time of court is saved for being utilised for deciding those matters which affect and involve the rights of citizens. The Parliament was conscious of the fact that this country cannot afford to waste the court's time for deciding academic or luxurious litigation...The High Court should not be required to enter into controversies of academic interest although they may certainly be very useful and of great interest to the professors and students of law in the Universities. They would be injurious and detrimental to other litigants who are waiting in queues for a decade and are impatient to get justice from the High Court".

Are we to convert the sacred and pious temples of justice into "legal gymnastic clubs", legal debating societies or even luxurious research centres of law? Are we to wait and watch helplessly the gimmicks of talented logic & brilliant feats of oratory of those fortunate few, who can afford, at the cost of thousands litigants who either waiting in jail cells for last 5 or 6 years to get their guilt or innocence decided or those thousands of civil servant or industrial workmen petty shopkeepers or farmers whose fundamental rights have been invaded by unscrupulous employer of the State functionaries and who want to have "justice, according to law" atleast if not real justice or social justice, but who are not getting their turn of hearing due to heavy cause list and arrears of cases. A lakh of such disappointed, helpless, impatient, gloomy faces, of litigants involved in about 1, 0000 pending cases, are staring at me, and remind of the great importance of giving effect to the riders of "substantial injury" substantial failure of justice, "to make room for deciding their waiting fates and to liberate them from coma" caused due to suspense of pending cases for more than a decade.

Again can we shut our eyes and become blind to the hard reality that lakhs poor, down trodden, less privileged citizens are those who are still outcaste from the realms of courts, justice and law, as they cannot afford to reach and stand in competition of the privileged, resourceful educated and enlightened litigantcy; nor can they afford to wait in long "queues". That being so, even though they deserves consideration and relief from the Courts we are helpless to act as "watch dogs and sentinel" of the Constitution and give justice to them. While I am sitting in the court room, my eyes are observing the unending stream of tears rolling from the eyes of Saharias of Shahbad" and others (Tillers of

Shahbad, sub-division Kota District) who with their empty bellies and naked skeletons of bone and starving body are helplessly watching their farms being encroached, trespassed and cultivated and crops being harvested by rich, resourceful invaders; and but they can never afford to even weep and cry in protest and cannot imagine of either going to a court of law or to obtain relief of getting back possession inspite of tall talk of "legal aid to poor" and its inclusion in the Constitution. It may be that, if I describe the above tragic functioning of our law courts of justice enumerating the hard realities, I may for a while take a role of a poet, philosopher or reformer, rather than a Judge; but it is this restraint which is responsible for the wide-spread feeling that "Judge lives in ivory towers" a feeling which even if untrue or partially true, should be repelled by "imparting speedy, cheap, social, ready and real justice" to the lowest in the ladder, i.e. a tiller, a workman, a cobbler etc. and not by using handy sword of "contempt" only.

25. Whatever I have said above in Chaturvedi's case and Manzoor Ahmed's case applies equally to the facts of the present case, where the State has tried to drag a family of deceased workman, particularly the old aged parents, of Beldar who died in harness, in most unwarranted avoidable litigation in this Court, and that too after repeated pronouncement in the case of Rukmani and others, where in almost in similar terms. I depreciated this practice. In spite of the judgment of this Court and inspite of deprecation of it, the same questionable technique has been adopted, not by any ordinary litigant by mighty State, which is supposed to respect the judicial verdict both, in letter and spirit.

26. Unfortunately, inspite of emphasis on social justice in the Constitution and the above observations of the courts, the compensation has not been increased with the spirale of prices rising has gone no high.

27. In the result, the appeal fails and is hereby dismissed. In my opinion, such appeal filed by the State deserves serious concern and the said practice to file appeal against the compensation to the workmen who has died in harness is to be deprecated. It is high time that the State should take proper steps to avoid recurrence in future and that would be in consonance with the spirit of the Constitution and the law of the social welfare labour legislation, mentioned above. I would therefore, allow exemplary costs of Rs. 1,000/-.

28. The appeal is, therefore, dismissed with cost of Rs. 1,000/-.