
(2007) 10 UK CK 0016
In the Uttarakhand High Court

State of Uttarakhand

APPELLANT

Vs

Smt. Asha Bisht

RESPONDENT

Date of Decision : 26-10-2007

Acts Referred:

Workmens Compensation Act, 1923 — Section 30

Citation : (2008) 116 FLR 353

Hon'ble Judges : Rajesh Tandon, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajesh Tandon, J.—Heard Shri S. Bhupendra Singh, Counsel for the appellant.

2. By the present appeal, filed u/s 30 of Workmen's Compensation Act, 1923, the appellant has prayed for setting aside the judgment and award dated 19.8.2004 passed by the Workmen Compensation Commissioner, Haldwani in W.C.C. No. 40 of 2003 whereby an award of Rs. 2,98,979 has been awarded in favour of the claimant.

3. Briefly stated, W.C.C. No. 40 of 2003 was filed before the Workmen Compensation Commissioner for compensation of Rs. 2,07,191/-. According to the claimant, on 30.12.2002 at about 6 p.m. Shri Jagmohan Singh Bisht, gatekeeper (hereinafter referred to as "the deceased") was ordered to deliver Ramanna Book Kathgodam, Hanumangarhi Chowki by the Forest Inspector, Shri Govind Singh Rajwar. After the delivery of the said Ramanna Book, the deceased was dashed by an unidentified vehicle near village Khera. As a result of which the deceased sustained grievous injuries and succumbed to injuries. It has been stated that the deceased died during the course of employment of Divisional Forest Officer, Haldwani Forest Range, Nainital, The deceased was earning a sum of Rs. 2,550/- per month and he was aged about 40 years at the time of accident. A sum of Rs. 2,07,191/- has been claimed towards compensation,

4. A written statement has been filed on behalf of the Divisional Forest Officer,

Haldwani Forest. Range, stating therein that the deceased was a daily wages employee. The claimant has to prove that on 30.12.2002 the deceased was sent to Hanumangarhi, Kathgodam for getting the receipt book and the deceased has died during the course of the employment of the defendant.

5. The claimant has filed a rejoinder stating therein that the defendant has admitted that the deceased was in the employment of the Forest Department.

6. The claimant has examined copy of first information report dated 30.12.2002, chik of first information report, post-mortem report and death certificate of the deceased.

7. The claimant has examined Smt. Asha Bisht towards the oral evidence.

8. On behalf of the defendant i.e. the Divisional Forest Officer, Shri Govind Singh has been examined.

9. Smt. Asha Bisht in her evidence has deposed that on the date of 30.12.2002 the deceased was sent to Hanumangarhi Chowki by Shri Govind Singh Raj war, Forest Inspector to deliver the Ramanna Book and when the deceased was returning after delivering the said Ramanna Book, he was dashed by an unidentified vehicle as a result of which the deceased sustained injuries and succumbed to the said injuries. In the cross-examined she remained unshaken.

10. The defendant witness Shri Govind Singh has deposed that the deceased was employed as daily wages employee at Golagate Exit Chowki and the deceased was sent to Hanumangarhi Chowki by him. Further, this witness has deposed that the deceased got injured by an .unidentified vehicle and he succumbed to injuries.

11. After taking into, consideration the evidence on the record, the Workmen Compensation Commissioner has recorded the finding that the deceased had died during the course of employment of the Forest Department and, therefore, the claimant is liable to get the compensation from the defendant Department. The Workmen Compensation Commissioner has considered the age of the deceased about 35 years and assessed the Income of the deceased to the extent of Rs. 2,550/- per month. The Workmen Compensation Commissioner has awarded a sum of Rs. 2,51,251/- towards compensation. Further, a sum of Rs. 47,228/- has been awarded towards interest.

12. Counsel for the appellant has submitted that the Workmen Competition Commissioner has .not taken into consideration the fact that the deceased was a daily wager and was not a regular employee.

13. Even if, the deceased was a daily wager and he was employed temporarily, the deceased cannot be debarred from getting compensation under the provisions of the Workmen's Compensation Act as if has proved beyond doubt that the deceased was under the employment of the defendant-appellant and the deceased died during the employment of the defendant-appellant.

14. In view of the aforesaid, I do not find any illegality in the findings recorded by the Workmen Compensation Commissioner, the award passed by the claims tribunal is affirmed and the appeal, therefore, is liable to be dismissed.

Consequently, appeal is dismissed. No order as to costs.