
(1970) 01 MAD CK 0008

In the Madras High Court

Case No : Letters Patent Appeal No. 102 of 1966

The Chairman, Madras Port Trust, Madras

APPELLANT

Vs

Kamala

RESPONDENT

Date of Decision : 28-01-1970

Acts Referred:

Workmens Compensation Act, 1923 — Section 3(1)

Citation : AIR 1970 Mad 386 : (1971) 21 FLR 383 : (1970) 83 LW 262 : (1970) 2 MLJ 59

Hon'ble Judges : K. Veeraswami, C.J.;Gokulakrishnan, J

Bench : Division Bench

Advocate : V.V. Raghavan, for the Appellant; S. Ramasubramanian and A.S. Ranganathan, for the Respondent

Final Decision : Dismissed

Judgement

Veeraswami, C.J.—This appeal under the Letters Patent arises out of an accident claim made by the widow of the deceased. At about 6-30

p.m. on 6th June 1961, her husband had been asked by one Mr. Watts, who was a dredger, to fetch food for him, and was knocked down by a

lorry on the highways near St. Thomas Mount and he died on the spot, At the time the deceased was riding a cycle and returning to the Port Trust

with food from Mr. Watt's residence. The Additional Commissioner for Workmen's Compensation, was not satisfied that the deceased was

injured resulting in his death by an accident arising out of and in the course of his employment He was of the view that fetching food for the

Dredger was not part of a Port Trust lascar's job. Venkatadri J., however, allowed the appeal by the respondent and fixed the compensation at

Rs. 2100.

2. There is no dispute about the quantum of compensation. But, on behalf of the Port Trust, it is contended that the deceased having been on a private errand commissioned by the Dredger and, the accident having occurred during performing that errand, which was not part of the lascar's employment, the Port Trust could not be made liable for compensation. Venkatadri J.'s view point on this was:--

Therefore it is clear that till this office order No. 38 was issued on 9-8-1961, the dredge masters were under the genuine impression that the lascars on duty could legitimately be asked to bring food from, outside the premises in order to enable them to supervise the work in the Port Trust without interruption. It should also be remembered that the act of the lascar in bringing the food for his master was only to facilitate the work of the master.

In other words, the learned Judge seems to be of opinion that, in the particular circumstances it was within the scope of the employment of the deceased lascar to go and fetch food for the dredge master at his discretion. The grant of compensation, therefore, depended on the scope of the lascar's employment.

3. The words in Section 3(1) of the Workmen's Compensation Act, 1923, "accident arising out of and in the course of his employment have been the subject-matter of a number of decided cases. It will suffice, however, to refer to Saurashtra Salt Manufacturing Co. Vs. Bai Valu Raja and Others, , where the Supreme Court, construing the words "in the course of his employment" said:--

As a rule, the employment of a workman does not commence until he has reached the place of employment and does not continue when he has left the place of employment, the journey to and from the place of employment being excluded. It is now well settled, however, that this is subject to the theory of notional extension of the employer's premises so as to include an area which the workman passes and repasses in going to and in leaving the actual place of work.

These observations were made also having regard to the facts in that case, as the accident there took place outside the place of employment. The place of employment, the time assigned for doing the work of the employment and whether the injury was sustained while doing any work within

the scope of employment, would be material to enquire in order to see whether an accident arises out of and in the course of a man's employment.

4. One of the lascars in the employ of the Port Trust, who has been examined, spoke to the fact that the deceased was daily going and fetching

food for his master. He also mentioned that it was not unusual for the dredge master to ask any of the lascars under his control to fetch food for

him. We also find from his testimony that it was the dredge master who assigned work, extracted work and directed its performance. A lascar is

employed for painting, chipping, wire-placing etc. But the lascar's work was extended by the dredge master also to fetch his food from his

residence, as a matter of routine, and, on practically every day, so far as the deceased was concerned. In such a situation, more especially when

the Port Trust had not defined the duties of a lascar and the dredge master was not prohibited, as it had been subsequently to the accident, in this

case, from employing lascars in doing personal service as fetching food, it would be reasonable to conclude that the lascar's employment extended

also to fetching food for the dredge master who was but an employee of the Port Trust, if the scope of the employment of the deceased included,

in the particular circumstances, fetching food, every day, for the dredge master, under whose direction he worked every day, as we find it was the

case, the facts do not permit of any doubt that the accident arose out of and in the course of discharging his duty, viz., fetching food for his master.

5. The appeal is dismissed with costs.