

(1988) 10 RAJ CK 0037
In the Rajasthan High Court

The Executive Engineer, Link Canal Irrigation Deptt. and
Another

APPELLANT

Vs

Sarala Devi and Another

RESPONDENT

Date of Decision : 07-10-1988

Acts Referred:

Contract Labour (Regulation and Abolition) Act, 1970 — Section 29
Employees Compensation Act, 1923 — Section 30

Citation : (1989) 1 ACC 280

Hon'ble Judges : N.C. Kochhar, J

Bench : Single Bench

Judgement

N.C. Kochhar, J.—The State of Rajasthan had undertaken the Gang Canal Project and the work of digging up was being got done through contractors.

2. Mr. Raghuveer Singh (the deceased) was working in that Project as a tractor driver and during the course of employment died in an accident at the site of the Project. Smt. Sarla Devi (respondent No. 1) moved the learned Commissioner under the Workmen Compensation Act, for grant of compensation, alleging that the deceased was employed with M/s Kashniya Choyal Construction Company, Ratanpura (respondent No. 2), through whom the State was getting the work done at the site. During the trial it was conceded by the State that the work was being got done through the contractor but stated that respondent No. 2 was not the contractor concerned. The learned Commissioner, after recording the evidence, held that the deceased was getting a salary of Rs. 800/- per month and that he was aged about 35 years at the time of his death. The Commissioner held that the State Government is liable to pay compensation as Principal employer and consequently, directed the State Government to deposit a sum of Rs. 63,059.20 within two months with interest at the rate of 6% per annum. The State Government has filed this appeal u/s 30 of the Workmen Compensation Act.

3. The only point raised by the learned Counsel for the appellant is that there was no evidence before the learned Commissioner to come to the conclusion that

the deceased was being paid a salary of Rs. 800/- per month. From the record, I find that the respondent No. 1 appeared as her own witness and also examined the co-employees of the deceased and the said co-employees deposed that the deceased was getting a salary of Rs. 800/- per month from the contractor. The records being maintained by the contractor were not got produced by the State Government, who has the responsibility to see that such records are maintained by the Contractor employed by the Government and also to see that payments are made to the employees. (See Section 29 of the Contract Labour (Regulation and Abolition Act, 1970). The appellant was in a position to get produced those records.

4. Learned Commissioner, on the basis of the evidence produced before it, came to a finding of fact in regard to the salary of the deceased and this Court cannot interfere with it while exercising powers u/s 30 of the Workmen Compensation Act, which entitles the Court to interfere only if substantial question of law is involved.

5. No other point has been raised.

6. The appeal is without force and is dismissed with costs.

7. The copy of this Judgment be sent to the learned Commissioner, for taking necessary further steps in the matter.