
(1997) 07 KAR CK 0069

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 1061 of 1992

The Mysore Sugar Company Limited, Mandya

APPELLANT

Vs

C. Mariyachari

RESPONDENT

Date of Decision : 10-07-1997

Acts Referred:

Citation : (1997) 07 KAR CK 0069

Hon'ble Judges : M.F. Saldanha, J

Bench : Single Bench

Advocate : Sri V.N. Satyanarayana, for the Appellant; Sri M.I. Ahmed, for the Respondent

Judgement

1. I have heard the learned Advocates on both sides. This appeal was taken, up for hearing principally because the respondent's learned Advocate pointed out that his client who was a workman with the Company had sustained an injury in the year 1990 and the Authority constituted under the Workmen's Compensation Act awarded a total compensation of Rs. 10,923-00. The Company who is the appellant has deposited certain amounts with the Authority but the respondent's learned Advocate submitted that by virtue of the interim order, that his client has not been able to withdraw the amount.

2. The only point that has been urged in this appeal is that having regard to the accepted position that the applicant was a Watchman, that he was supposed to have been chasing a thief, some wire nail entered his heel as a result of which he sustained a fall and injured himself, whether the compensation awarded was commensurate with the injuries sustained by him and whatever other incidental loss it was supposed to compensate him for. Learned Advocate raised two points, the first one being that the Company pointed out that there is a degree of contributory negligence on the part of the workman because he had been supplied a uniform and shoes and that on the date in question, he was using neither of them. The contention is that had the foot wares been used, that the incident itself could have been avoided. More importantly, the learned Advocate

submitted that the Authority was not bound to mechanically accept the evaluation of the doctor from the Mandya hospital who stated that the handicap was of the order of 10% when the Company has led evidence of its own Medical Practitioner who states that he examined the workman and found that there was no handicap or impairment when he resumed his work. In this background, the learned Advocate submitted that at the very highest the Court would have to assess as to what would be the reasonable compensation for the injuries that have been sustained all of which he categorizes as minor ones, and the incidental factors like pain and suffering etc. He points out that the first aid was given by the Company doctor, that the respondent was treated at the Mandya hospital and that no evidence has been produced of any expenditure incurred. He states that there was no loss of earning to the workman who has resumed his work thereafter and in this background, he submitted that the quantum is required to be drastically scaled down.

3. The respondent's learned Advocate has vehemently opposed any interference with the order because he submits that the Authority has very rightly held that the assessment of the doctor who treated the workman prevails over the opinion of the Company doctor who has merely stated that when he came back to work, he was fit to do so and does not appear to be handicapped in any manner. There may be some justification in the submission canvassed by the respondent's learned Advocate when he states that the opinion of the doctor who treated the workman would be of higher value particularly since the Company doctor does not specifically depose that he had analysed the case and done a careful examination of the patient before coming to the conclusion. Irrespective of these two opinions however, the respondent's learned Advocate advanced a strong submission that the respondent sustained injuries, he was hospitalised for a month and that from this alone, the Court would have to conclude that the injuries were not superficial and that some aftereffects which have been assessed at 10% were in fact there.

4. The truth of the matter lies between the two extremes. I need to specifically observe here that the whole purpose of setting up forums for awarding compensation is in order to judicially assess the extent of damage or injury that has taken place and the compensation is intended to be a retribution for the loss that has been so suffered. These forums will always have to guard against the situations where attempts are made to exaggerate the injuries particularly against situations where all sorts of grounds and pleas are put forward to justify the incident being used as a ground for exaggeration or for getting far more than what is justly due. Again, there is a sympathy aspect and this cannot and should not be allowed to be exploited because misplaced sympathy is something that the law has to guard against. This Court has come across, times without number indiscriminate compensation being awarded which bear no relation whatsoever to what the law entitles. In the present case, the respondent's learned Advocate submitted that the amount of Rs. 10,923-00 is a meagre amount and that on this ground alone, a Court should refuse to interfere. That argument does not

really appeal to me because the real question is as to whether the injuries and the facts of the case justify the award of the amount that will have to be paid to him which is the essential principle involved in all such cases. On a careful assessment of the material that I am inclined to accept the plea put forward on behalf of the appellants that the compensation awarded will have to be scaled down. To my mind, on an overall assessment of the nature of injuries and all other factors taken into consideration, the amount of compensation if fairly computed could not have been more than Rs. 7,000/-. Even in doing so, this Court is making a rough appraisal on the basis of what to my mind is a very generous view of the facts and circumstances of the case. The order passed by the Authority is accordingly modified and the quantum of compensation stands reduced to Rs. 7,000/-. The interest payable at the rate of 6% p.a. from the date of the application would be payable to the respondent who is entitled to receive the same.

5. The appeal partially succeeds and stands disposed of. The Authority shall ensure that in keeping with the modified order passed by this Court, the compensation payable to the respondent is released forthwith. The appellants' learned Advocate states that the entire amount has been deposited with the Authority. The Authority shall compute the amount payable to the respondent and if the amount deposited covers the amount payable to the respondent, the compensation payable to the respondent shall be released forthwith failing which, the appellants shall be called upon to deposit the balance amount with the authority immediately. If there is any excess amount that has been deposited with the Authority, the same shall be returned to the appellants.

6. The appeal to stand disposed of. No order as to costs.