

(2014) 11 TP CK 0007
In the Tripura High Court
Case No : MFA (W/C) 4, 5 and 6 of 2009
The State of Tripura Vs Anita Singha

Date of Decision : 10-11-2014

Acts Referred:

Workmens Compensation Act, 1923 — Section 21, 30

Citation : (2014) 11 TP CK 0007

Hon'ble Judges : Deepak Gupta, C.J

Bench : Single Bench

Advocate : J. Majumder and D.C. Nath, Advocate for the Appellant; S.K. Datta, B. Nath and K. Bhattacharjee, Advocate for the Respondent

Judgement

Deepak Gupta, C.J.—All these three appeals are being disposed of by a common Judgment since the issues raised in all the three appeals are identical.

2. At the time when the appeals were admitted, no substantial question of law was framed as required under the provisions of Section 30 sub-Section (5) of the Workmen's Compensation Act.

3. At the stage of hearing, Mr. Majumder, learned counsel has raised the following questions of law:-

i) Whether the Commissioner, Workmen's Compensation had jurisdiction to entertain the petition since the accident did not occur in his territorial jurisdiction?

ii) Whether the deceased-employees were workmen?

4. Briefly stated the facts of the case are that the victims in all the three cases were employed as labourer-cum-night guard in Agriculture department and posted at Kamalpur. It is not disputed that they died during the course of employment. It is urged on behalf of the State that since the accident occurred at Kamalpur in terms of Section 21 of the Workmen's Compensation Act, the value of the proceedings should have been the Court at Kamalpur and not at Agartala.

5. Section 21 of the Workmen's Compensation Act provides three different

places where a petition can be filed. The first is the Commissioner having jurisdiction over the area in which the action took place; the second is the Commissioner having jurisdiction for the area where the workmen or in case of his death, his dependant resides and lastly, where the employer has his registered office. In the present case, admittedly, the accident took place outside the territorial jurisdiction of Commissioner, Workmen's Compensation, Agartala and even the dependants of the deceased workmen reside in the territorial jurisdiction of the Workmen's Compensation Commissioner, Kamalpur. However, it is urged by Mr. S.K. Datta, learned counsel that the State has its headquarter at Agartala and in terms of clause C of Section 21, the proceedings can be filed where the employer has a registered office.

6. Mr. Majumder, learned counsel submits that registered office has to be read in the context of companies which have registered offices and others may or may not have registered offices. I am not at all in agreement with this argument put forth by the State. The intention of clause (c) is that the petitioner under the Workmen's Compensation Act can also be filed at the place where the employer has its main office. The claimants were the employees of the directorate of Agriculture though under the Superintendent of Agriculture at Kamalpur. Finally, it is the State of Tripura which is responsible to pay the compensation and therefore, there is no jurisdictional error. Even otherwise, it is indeed shocking and surprising that the State should take such an objection. Such technical stands do not behave a welfare State. It may oppose the claim petition on other grounds, but not on a ground, which has caused no prejudice to it. Therefore, this contention is rejected.

7. As far as the second contention is concerned, this Court in Mfa (WC) No. 22 of 2007 has clearly held that a night guard is a workmen within the meaning of the Workmen's Compensations Act in view of the entry (xxxiii) inserted wherein a watchman in any factory or establishment is a workmen. The office of the Directorate of Agriculture is also an establishment and therefore, the deceased were workmen.

8. The compensation has been computed strictly in accordance with the provision of Act. Therefore, I find no merit in the appeals which are accordingly, dismissed.