

**(2006) 10 KAR CK 0017**  
**In the Karnataka High Court**  
**Case No : M.F.A No. 5725 of 2003**

T.N. Gowramma

APPELLANT

Vs

T.N. Shivashankar and National Insurance Co. Ltd.

RESPONDENT

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**Date of Decision :** 12-10-2006

**Acts Referred:**

Workmens Compensation Act, 1923 — Section 2 (d)

**Citation :** (2007) 2 ACC 793 : (2007) ACJ 417 : (2008) 1 SLJ 177

**Hon'ble Judges :** V. Jagannathan, J

**Bench :** Single Bench

**Advocate :** Patel D. Karegowda, for the Appellant; T.N. Shivashankar, for R1 and A.M. Venkatesh, for the Respondent

**Final Decision :** Allowed

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## Judgement

V. Jagannathan, J.—One T.N. Gowaramme, the mother of the deceased Shivashankar is before this Court, in this appeal, questioning the dismissal of the claim petition filed by her before the Commissioner for Workmen's Compensation, Tumkur.

2. The main grievance of the appellant is that the Commissioner has dismissed the claim application on the ground that the appellant was not dependent upon her deceased son.

3. I have heard the learned Counsel for the appellant. The learned counsel for the respondents are absent.

4. It is submitted by Sri Patil D. Karegowda, learned Counsel for the appellant, that no doubt the appellant did state before the workmen's Commissioner that she has been living with her husband and for the purpose of compensation, she has stated that she is residing away from her husband.

5. However, the Commissioner could not have given undue importance to the said statement of the appellant because as a mother, the appellant was

dependant upon her son to some extent, if not dependant totally upon her son. Therefore., the Commissioner's conclusion is erroneous.

6. I find that there is sufficient force in the said submission made by the learned Counsel for the appellant because a look at the definition of the term "dependant" in Section 2(d) of the Workmen's Compensation Act, 1923, makes it clear that a parent other than a widowed mother, even if dependant on the earnings of the workman in part, such a person also comes within the ambit of the definition "dependant", This is clear from Section 2(d)(3)(b) .

7. Therefore, the commissioner could not have refused to entertain the application filed by the mother of the deceased, having regard to the above definition of the term "dependant" and as such the matter requires remand for fresh consideration.

8. In the result, the appeal is allowed and the impugned order is set aside and the matter is remitted to the Commissioner for workmen's Compensation, Tumkur, for fresh disposal in accordance with law and since much time has elapsed from the date of the accident, the Commissioner, shall dispose of the matter within three months from the date of receipt of this order.

VJJ/ 13.10.2006 MFA.NO. 5725/2003ORDER ON BEING SPOKEN TO

Heard the learned Counsel Sri. A.M. Venkatesh for the insurance company. It. is contended that the employer of the deceased was none other than the father of the deceased and as such, the question of the mother becoming dependent on the deceased will not arise and secondly, it is submitted that in the event of remanding, the Commissioner be directed to deal with all the issues.

2. In so far as the first ground urged is concerned, in view of the definition of the defendant u/s 2(3)(b), the mother even if she is dependent on the son to some extent, she becomes eligible to make a claim. As far as the other ground is concerned, this court has already directed the Commissioner to dispose of the matter "afresh". This order shall be read as part and parcel of the judgment already dictated in the open Court.