

(2002) 11 AHC CK 0058
In the Allahabad High Court
Case No : F.A.F.O. No. 197 of 2002

United India Insurance Co. Ltd.

APPELLANT

Vs

Laloo Kashyap and Another

RESPONDENT

Date of Decision : 13-11-2002

Acts Referred:

Workmens Compensation Act, 1923 — Section 2, 30

Citation : (2004) ACJ 1380 : (2003) 1 AWC 632

Hon'ble Judges : S.P. Srivastava, J;M.P. Singh, J

Bench : Division Bench

Advocate : Arvind Kumar, for the Appellant; Bhanu Bhushan Jauhari, for the Respondent

Judgement

S.P. Srivastava, J.—Heard the learned counsel for the appellant as well as learned counsel representing the claimant respondent.

2. The insurer appellant has filed this appeal u/s 30 of the Workmen's Compensation Act, 1923, feeling aggrieved by the award of the Workmen Compensation Commissioner, Shahjahanpur holding that the respondent workman was entitled to an amount of Rs. 2,36,866.72 p. as compensation on account of the injuries suffered and the permanent disability incurred in the accident which had taken place during the course of his employment. The Commissioner has provided for a simple interest at the rate of 12% p.a. on the amount of compensation.

3. The learned counsel for the insurer appellant has, in support of this appeal, urged that the respondent claimant could not be taken to be a "workman" as contemplated under the provisions of the Workmen's Compensation Act. 1923 and in that view of the matter, no liability for the payment of the amount in question can be saddled on the insurer.

4. The contention is that the definition of the expression "workman" as contained in Section 2(n) of the Workmen's Compensation Act, 1923, stipulates that it

applies to a person whose employment is not of a casual nature but in the present case even on the own showing of the claimant, he had been engaged on dally wage basis and, therefore, such an employment ought to have taken to be of a casual nature.

5. The aforesaid submission does not bear scrutiny.

6. A perusal of the definition of the expression "Workmen" as contained in Section 2(n) of the Workmen's Compensation Act clearly indicates that the employment should not have been of a casual nature. It does not refer to an employment on daily wage basis.

7. The finding returned against the appellant by the Workmen's Compensation Commissioner is that the claimant was continuing in service for a period of four years continuously though he was being paid Rs. 70 per day as wages. The employment which has continued for a period of four years, cannot be taken to be of a casual nature as contemplated u/s 2(n) of the Workmen's Compensation Act.

8. The Tribunal, in support of its conclusion in regard to the contention of the insurer appellant, has placed reliance upon a decision of the Andhra Pradesh High Court.

9. The finding returned by the Tribunal cannot be held to be vitiated in law so as to warrant any interference in the present proceedings while exercising jurisdiction envisaged u/s 30 of the Workmen's Compensation Act.

10. No other ground has either been urged or pressed in support of this appeal.

11. Considering the facts and circumstances as brought on record, this appeal falls and is, accordingly, dismissed in limine.