
(1991) 02 MP CK 0018
In the Madhya Pradesh High Court
Case No : M.A. No. 103 of 1982

Western Railway

APPELLANT

Vs

Chandrabai and Another

RESPONDENT

Date of Decision : 19-02-1991

Acts Referred:

Workmens Compensation Act, 1923 — Section 3

Citation : (1992) 2 ACC 615 : (1992) ACJ 496 : (1992) 65 FLR 541 : (1993) 3 LLJ 911

Hon'ble Judges : A.G. Qureshi, J

Bench : Single Bench

Advocate : Y.I. Mehta, for the Appellant; G.K. Nema, for the Respondent

Final Decision : Dismissed

Judgement

A.G. Qureshi, J.—This appeal has been filed aggrieved by the award of compensation dated 29th January, 1982, by Shri A.N. Sorti, Commissioner for Workmen's Compensation, Indore, in case No. 18/W.C.Act/78-Fatal.

2. The facts leading to this appeal, in short, are that the non-applicant, Chandrabai, claiming as widow of the deceased, Tolaram, had filed an application u/s 10 of the Workmen's Compensation Act, 1923, before the lower Court and claimed Rs. 19,200 as compensation. According to her, her husband, Tolaram, was in employment of non-applicant Nos. 1, 2 and 3 and was working as a loco attendant. On the intervening night of 11th June, 1976, and 12th June, 1976, the deceased, when he was going from his house to attend to his duty in the railway colony, met with an accident and succumbed to the injuries received during the accident. As the railway administration had not provided any residential facility to the workman in the railway premise, he had to live outside the railway area in a privately rented house and from there he was actually going to attend to his duty and, therefore, the claim of the applicant was that the deceased died while he was on his way to attend his duty.

3. The claim was resisted by the present appellant on the ground that the accident did not arise out of or during the course of employment. Therefore, the appellants are not responsible for paying compensation to the respondent.

4. However, the Court was of the view that the word "employment" which has been used in Section 3 of the Workmen's Compensation Act, 1923, has a wider meaning than the word "work". The Principle of notional extension of employer's premises was applied in this case and the learned lower Court has followed the judgments in *Bombay Electric Supply and Transport Undertaking v. Mrs. Agnes*. 196 II LLJ 615. Therefore, the lower Court allowed the compensation application of the respondent. Hence this appeal.

5. Learned counsel for the appellant, Shri Y.I. Mehta, argues that the Court has erred in not considering the fact the accident occurred when the applicant was on the road outside the work area and, therefore, the notional extension theory of the work has wrongly been applied to the facts of the present case.

6. In my opinion this argument of learned counsel is without any force in view of the clear view taken by the Supreme Court in the case of *Bombay Electric Supply and Transport Undertaking v. Mrs. Agnes* wherein the Supreme Court has held that when a driver of a bus was going from his depot after the duty to his house and vice versa, the aforesaid coming and going should be treated as a part of the employment and when such a driver meets with an accident while going home from the depot, it should be held that the accident occurred during the course of employment.

7. In the instant case also, the deceased was going to attend his duty from his house. While doing so, he met with an accident. Therefore, the act of the deceased of going from his house for attending to his duty would be included in the term "employment" and, therefore, the learned trial court has not erred in any way in applying the notional extension theory in the facts and circumstances of the case.

8. Shri Mehta, learned counsel, next contended that the learned lower Court has erred in condoning the delay in filing the application. The facts of the case are very clear. The applicant is an illiterate widow of an ordinary workman and she has explained the reasons for delay before the trial Court. In my opinion, the trial Court has rightly exercised its discretion in condoning the delay and it is not a fit case for interference in the aforesaid discretion.

9. In view of the aforesaid the appeal filed by the appellant is dismissed being without any merit with costs. Counsel's fee Rs. 100.