

(1988) 06 KAR CK 0008
In the Karnataka High Court
Case No : M.F.A. No. 2841/1986

Zoo Authority of Karnataka

APPELLANT

Vs

Ranga

RESPONDENT

Date of Decision : 15-06-1988

Acts Referred:

Workmens Compensation Act, 1923 — Section 2(1) (N)

Citation : (1988) 2 KarLJ 347

Hon'ble Judges : D. P. Hiremath, J;N. Venkatachala, J

Judgement

Venkatachala, J.-By consent of learned Counsel, this appeal is treated as having been posted for hearing and we have heard them.

2. Zoo Authority of Karnataka has filed this appeal under Section 30 of the Workmen's Compensation Act, 1923 ("the Act"), questioning the validity of an order of the Commissioner for Workmen's Compensation, Mysore District, Mysore (the Commissioner"), by which it is directed to pay as compensation a sum of Rs. 9,114/- to the respondent.

3. Antecedant material facts which bear on the contentions raised in the appeal, may be briefly referred to here with advantage.

Sri Chamarajendra Zoological Gardens at Mysore ("the Zoological Gardens") was formerly an establishment of the Department of Horticulture of the Government of Karnataka, its employees being Government servants. That establishment stood transferred in its entirety along with the servants working there to the Zoo Authority of Karnataka (the appellant) after its registration as a society under the Karnataka Societies Registration Act, 1960. The respondent, who was a keeper of wild animals in the Zoological Gardens, continued as such even after its transfer to the appellant. On 20-11-1975, while the respondent was discharging his duties in the Zoological Gardens, he was attacked by a wild animal-Chimpanzee kept there, making him suffer injuries in fingers of his both hands and toes of his left leg. This led him to make a claim under the Act against the appellant for payment of compensation for the said injuries before the Commissioner. On

enquiry of that claim, the Commissioner made the order which has become the subject matter of this appeal, as stated at the outset.

4. Two contentions raised on behalf of the appellant against the validity of the order under appeal, are-firstly the respondent being a Government servant, can claim compensation for the injuries suffered by him from the Government; and secondly, the respondent could not be regarded as a workman under the Act, so as to entitle him to claim compensation from the appellant under Section 3(1) of the Act. We find no substance in either of the contentions for the reasons which we shall presently state.

Contention (1):

It is an admitted fact that the respondent was a Government servant when the Zoological Gardens was with the Department of Horticulture of the Government of Karnataka. Then, with the transfer of the Zoological Gardens to the appellant-Zoo Authority of Karnataka, a registered society, the respondent became the appellant's employee, was rightly not disputed. When once the respondent became an employee of the appellant-Zoo Authority of Karnataka. he necessarily ceased to be a Government servant and hence cannot claim compensation for the injuries suffered by him from the Government. Consequently, the contention that the respondent is a Government servant and can claim compensation for the injuries suffered by him from the Government, cannot be sustained.

Contention (ii):

Subsequent to the transfer of the Zoological Gardens to the appellant-Zoo Authority of Karnataka, the respondent, who was an employee therein at the time of the transfer, became an employee of the appellant, as pointed out earlier. So also, the appellant became the employer of the respondent. Now, the question is whether the respondent is a workman under the Act. so as to entitle him to claim compensation for the injuries caused in an accident arising out of and in the course of his employment. According to Section 2(1)(n) of the Act. "workman" means "any person", who is employed in any such capacity as is specified in Schedule-II thereto. Under item (xxii) of Schedule-II, a person employed in keeping wild animals is a workman. Hence, the respondent/who was keeping Chimpanzee-a wild animal in the Zoological Gardens, the establishment of the appellant, is a "workman" within the meaning of the Act, as would entitle him to claim compensation for any injury suffered by him in an accident arising out of and in the course of his employment under the appellant, ie., under Section 3(1) of the Act. Hence, the second contention urged on behalf of the appellant, as well, cannot be sustained.

5. In the result, this appeal fails and is accordingly dismissed.