IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
ABHAY S. OKA; J., SANJAY KAROL; J.
4 September 2023
CIVIL APPEAL NO. 4713 OF 2023 (Arising out of SLP(C)No.17963 of 2019)
FULMATI DHRAMDEV YADAV & ANR. *versus* **NEW INDIA ASSURANCE CO. LTD. & ANR.**

Employees Compensation Act, 1923; Section 30 - An appeal from an order of Commissioner can be entertained only if there exists a substantial question of law to be considered – Workmen's Compensation Commissioner is the last authority on facts – The other ground making the order under challenge, amenable to interference when the scope of jurisdiction is circumscribed by it being exercised only in cases of "substantial question of law", is perversity in the findings. *(Para 17-21)*

Employees Compensation Act, 1923 - Social welfare legislation must be given a beneficial construction – Matters thereunder are to be adjudicated with due process of law and also with a keen awareness of the scope and intent of the Act. *(Para 30)*

For Appellant(s) Mr. Shreyas Mehrotra, Adv. Mr. Rahul Gupta, AOR

For Respondent(s) Dr. Meera Agarwal, AOR Mr. Ramesh Chandra Mishra, Adv.

J U D G M E N T

SANJAY KAROL J.,

1. This appeal is filed at the instance of one Fulmati Dhramdev Yadav, assailing the judgement passed by the High Court of Gujarat at Ahmedabad in First Appeal No.3487 of 2013 whereby the Court has set aside the order of the Commissioner for Workmen Compensation Act, Bhuj (Kutch), Gujarat in W.C.F.C. No.08/10 awarding compensation in favour of legal representatives of the deceased employee.

2. Appellants herein[1] are the mother and wife of one Ramakant Yadav[2] who allegedly died on 31st October, 2009 as he was tying up logs on trailer while in employment as its driver, when one such log fell on his left leg. He died before any medical treatment could be given to him.

3. The deceased, allegedly, was an employee of Kutch Carrier (Sohansing & Sons[3]), drawing a salary of ₹4000 per month.

4. Such employment of the deceased was denied by the insurer for lack of production of documents of employment. Neither has any proof of income of the deceased been produced.

5. The claim of ₹3,94,120/- is denied in the above terms, by the Insurer-respondents herein.

Order of the Commissioner

6. Feeling aggrieved by the denial of the claim, proceedings were initiated by the claimants herein before the Commissioner, Workmen Compensation Act, Bhuj (Kutch), Gujarat in terms of W.C.F.C.No.08/10. The Commissioner framed 8 issues for

[1] Hereinafter referred to as "the claimants"
[2] Hereinafter referred to as " the deceased"
[3] Hereinafter referred to as "the employer". Opponent 1 before the Commissioner

consideration. The tabular representation below represents the issues framed, the reasoning thereon and the findings returned.

S. No	Issue	Order	Reasoning
1.	Whether present applicants are legal heirs and dependant of deceased?	Affirmative	Claimants are dependants and Legal heirs of deceased.
2.	Whether deceased was employee of Employer?	Affirmative	FIR in question reveals name of the deceased as a driver performing duty of Employer
3.	Whether accident occurred during course of employment? If yes, then deceased died due to injuries in accident?	Affirmative	No document contrary shown by Employer.
4.	Whether age is proved at the time of accident? and monthly income of ₹4,000/- is proved?	35 years & salary ₹4,000/-	Age affirmed by Driving License indicating date of birth as 01-05-74. Also no adverse evidence shown by Insurer. On salary being ₹4,000/- p.m. reliance was placed on deposition of Ex19.
5.	Whether opponents are liable to compensation amount? If yes, then what amount?	Affirmative	Awarded compensation of ₹3,94,120/- on the ground that deceased died during the course and out of employment as ownership truck was also insured by the insurer as per documents placed by the claimant.
6.	What is the responsibility of insurance co.?	Affirmative	Deceased was employed as a driver with the employer on vehicle no. GJ12w7670. The vehicle being insured, the insurer was to pay 9% interest from date of accident.
7.	Whether opponents are negligent to pay compensation? If yes, then are they liable to pay penalty and interest?	Affirmative	Employer while being in knowledge of accident did not pay compensation to claimant within 30 days of the accident as per the Workmen Compensation Ac,t hence Penalty @ 50% was imposed amounting to ₹1,97,060/-.
8.	What is final order?	Affirmative	₹3000/- for expenses and ₹5000/- for funeral expenses to be paid to the claimant.

7. In terms of the above, the Insurer-New India Assurance Co. Ltd.[4] was directed to pay as compensation ₹3,94,120/-with interest accruing thereupon from the date of the death of the deceased @9%. The same was to be paid within 30 days of the order. The employer was directed to pay ₹1,97,060/-, i.e., 50% of the compensation amount as penalty. Further, it was directed that the latter would pay ₹8000/- (with breakup of ₹3,000/- and ₹5,000/-) for expenses and funeral expenses, particularly.

8. Only the Insurer appealed against this order.

First Appeal-Impugned Judgement

9. It may be noted that during the pendency of the First Appeal, vide an order dated 25th June, 2014 passed in Civil Application No. 2822 of 2013 the Commissioner was directed to invest 80% of the amount that was deposited with such authority in cumulative

[4] Hereinafter referred to as "Insurer"

fixed deposits for an initial period of three years, to be renewed from time to time and the remaining 20% to be disbursed to the claimants.

10. Having considered the evidence on record such as an abstract of the accidental death register of the Gandhigram "A" division police station, and the cross-examination of the claimant i.e., wife of the deceased, as well as the other documents produced, which, the learned Court concluded that the deceased was neither working with the employer nor on the date of the occurrence of the incident, received injuries and died, as a result thereof.

11. Hence, the order of the Commissioner was set aside.

12. Thus, the present appeal.

13. By way of the special leave petition it has been urged amongst other grounds, that the Court in First Appeal has transgressed the confines of Section 30 of the Workmen Compensation Act, 1923[5]; the vehicle in which the logs were stored and thus were being untied, was insured and therefore, the accident having taken place is within the ambit of the insurance company's responsibilities; that the impugned judgement has left the Claimants remediless and sans any support since the sole breadwinner of the family had passed away.

Analysis and Consideration

14. The act governing the present dispute, i.e., the Workmen Compensation Act, 1923, has been, vide The Workmen's Compensation (Amendment) Act, 2009, amended, by which the word "workmen" has been substituted by "employees" rechristened as the Employees Compensation Act, 1923.

15. What this Court must consider is whether the impugned judgement is sustainable in law? On merits, the consideration would be whether the order of the Commissioner, in light of the materials on record, can stand or not? In other words, the impugned judgement must stand true on two grounds, (i) statutory text; and (ii) whether the materials on record support the conclusion drawn therein or not?

16. Appeals within the act are governed by Section 30 which is extracted below for reference: –

"30. Appeals. — (1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely :—

an order awarding as compensation a lump sum whether by way of redemption of a half monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;

1 [(aa) an order awarding interest or penalty under section4A;]

(b) an order refusing to allow redemption of a half-monthly payment;

(c) an order providing for the distribution of compensation among the dependants of a deceased 6 [employee], or disallowing any claim of a person alleging himself to be such dependant;

(d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12; or

(e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

[5] Hereafter, the Act

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (b), unless the amount in dispute in the appeal is not less than [2][ten thousand rupees or such higher amount as the Central Government may, by notification in the Official Gazette, specify]:

Provided, further, that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties:

[3][Provided further that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.]

2 The period of limitation for an appeal under this sectionshall be sixty days.

3 The provisions of section 5 of 4 [the Indian Limitation Act,1963 (36 of 1963)] shall be applicable to appeals under this section."

(Emphasis Supplied)

17. The Act is unequivocal in stating that an appeal from anorder of Commissioner can be entertained only if there exists a substantial question of law to be considered. It has been observed by this Court that the phrase "substantial question of law" within this Act shall be understood by its general meaning.[6] When considering the general meaning of this phrase, naturally, the reference is to the Code of Civil Procedure (CPC). The rule therein is that framing of a substantial question of law is of cardinal importance.

18. A bare perusal of the impugned judgement shows that the Court did not frame any such question.

19. The wording of the Act indicates that the existence of sucha question is a prerequisite to the appeal being entertained.

20. Illustratively, in North – East Karnataka Road Transport Corporation v. Sujatha[7] (Two-Judge Bench) amongst numerous other cases, this Court has observed:

*"*12. In other words, the appeal provided under Section 30 of the Act to the High Court against the order of the Commissioner is not like a regular first appeal akin to Section 96 of the Code of Civil Procedure, 1908 which can be heard both on facts and law. The appellate jurisdiction of the High Court to decide the appeal is confined only to examine the substantial questions of law arising in the case."

21. The other ground making the order under challenge, amenable to interference when the scope of jurisdiction is circumscribed by it being exercised only in cases of "substantial question of law", is perversity in the findings. Here, the impugned judgement does not, even remotely, reflect the observation that the findings arrived at by the Commissioner are perverse. The difference, between the two judgements, i.e., the order of the Commissioner and the judgment in First Appeal, was on the point of the employer-employee relationship having been established. The Commissioner held such relationship to have been established however, the appeal Court observed that "claimants have clearly failed to prove this aspect"

22. It may here only be noted that the Commissioner had not returned any findings in respect of the validity of nonavailability of the license of the deceased nor was it one of the questions framed by the Commissioner for consideration. In such a situation, while

[6] Om Prakash Batish v. Ranjit (2008) 12 SCC 212 (2 judge-bench)
[7] (2019) 11 SCC 514

exercising powers within the limited purview allowed by section 30 of the Act, the learned Court below erred in making observations and giving a holding in that regard.

23. It has also been observed by this Court that the Commissioner is the last authority on facts involved in a case. In **Golla Rajamma & Ors. v. Divisional Manager & Anr.**[8] (2-Judge Bench) it was observed that "under the scheme of the Act, the Workmen's Compensation Commissioner is the last authority on facts. Parliament has thought it fit to restrict the scope of the appeal only to substantial questions of law, being a welfare legislation. Unfortunately, the High Court has missed this crucial question of limited jurisdiction and has ventured to reappreciate the evidence and recorded its own findings on percentage of disability for which also there is no basis. The whole exercise made by the High Court is not within the competence of the High Court under Section 30 of the Act."

24. Keeping in view the said principles, the impugned judgement, *ex-facie,* appears to be in contravention thereto.

25. On merits too, we find that the conclusions arrived at by the Commissioner, were undoubtedly "a possible view", therefore extinguishing the possibility of perversity in findings.

26. A Bench of two learned Judges observed in **C. Manjamma v. New India Assurance Co. Ltd.**[9]

"15. That being the position, the view taken by the Commissioner had been a possible view of the matter in the given set of facts and circumstances; and there was no reason for the High Court to interfere with the same, particularly when the case did not involve any substantial question of law within the meaning of Section 30 of Employees Compensation Act, 1933."

27. From the materials available on record before the Commissioner as described in the order, it certainly will not be an improbable, much less an impossible, conclusion that the deceased was on the pay-roll of the employer. *Prima facie, the* question that arises and remains un-addressed throughout was, as to what the deceased was doing with the trolley as also the goods laden on it, which he was tying or untying at the time of his death. Second, the affidavit placed before the Commissioner categorically stated that deceased was an employee of the employer. It has been noted by the Commissioner, in his consideration of the second issue that, no written statement had been filed nor had the version of the Applicants been challenged by the employer; and even though the Respondents herein had denied the facts as stated in the petition and cross examined the Applicants, "but no adverse facts proved" by and "no adverse document produced" by the Insurer to rebut the contents of the claim petition

28. Additionally, having gone through the record we find that in the Panchnama of the place of occurrence[10], it has been recorded that there was only one person present at the spot. He was Sunilbhai Ramjibhai Ahir and was serving as a supervisor in the company of the employer. The inquest panchnama form[11] also names the employer company. The address mentioned, with which the deceased was associated as also the person who has identified the corpse of the deceased, for both of them it corresponds to that of the employer company.

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[8] (2017) 1 SCC 45

[9] (2022) 6 SCC 206

[10] Annexure P – 1 at page 23

[11] annexure P – 6 at page 9 of application to place on record additional documents

29. The circumstances, i.e., the presence of the deceased atthe spot; the ownership of the trolley and the goods loaded therein; the presence of this supervisor of the employer company; and details mentioned in the inquest panchnama form, when considered together, point to the aspect of the deceased person being on the roll of the employer.

30. It is well-established that the Act is a social welfare legislation and, therefore, it must be given a beneficial construction. Matters thereunder are to be adjudicated with due process of law and also with a keen awareness of the scope and intent of the act. This Court has, time and again, reiterated this principle. We may refer to **K. Sivaraman v. P. Sathishkumar**[12] wherein, speaking for the Court, Dr. D.Y Chandrachud J., observed: –

"25. The 1923 Act is a social beneficial legislation and its provisions and amendments thereto must be interpreted in a manner so as to not deprive the employees of the benefit of the legislation. The object of enacting the Act was to ameliorate the hardship of economically poor employees who were exposed to risks in work, or occupational hazards by providing a cheaper and quicker machinery for compensating them with pecuniary benefits. The amendments to the 1923 Act have been enacted to further this salient purpose by either streamlining the compensation process or enhancing the amount of compensation payable to the employee."

(Emphasis supplied)

31. It may be noted that the Commissioner had not returned any findings in respect of the validity or invalidity of the license of the deceased nor was it one of the questions framed by the Commissioner for consideration. In such a situation, while exercising powers within the limited purview allowed by Section 30 of the Act, the learned Court below erred in making observations and giving a holding in that regard.

32. In the facts at hand, with the cumulative sum of circumstances pointing to the employment of the deceased with the employer company; in keeping with the principles of the legislation being intended for social welfare and protection of employees; the Commissioner being the last authority on facts; the scope of an appeal under the said Act being limited only to substantial questions of law; and no perversity could be demonstrated from the order of the Commissioner, we set aside the order passed in First Appeal No.3487 of 2013. The Appeal is allowed.

33. As a consequence thereof, the order passed by the Commissioner, Workmen Compensation Act, Bhuj (Kutch), Gujarat in W.C.F.C.No.08/10 is restored. The amount as deposited, per this order (the remaining 80%, after the release of 20% of the sum awarded being ordered by the Court below in Civil Application No.12822 of 2013 vide order dated 25th June, 2014) and placed in cumulative fixed deposits, shall become payable to the claimants forthwith, in compliance of the terms and conditions set out therein.

34. Parties to bear their own costs.

35. Interlocutory application(s), if any, shall stand disposed of.

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[12] (2020) 4 SCC 594