

Pamma Ram Vs. Chet Ram and ors.

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Court : Himachal Pradesh

Decided On : Jun-25-1954

Reported in : AIR1954HP82

Judge : Ramabhadran, J.C.

Acts : Workmen's Compensation Act, 1923 - Section 30

Appeal No. : Civil Misc. First Appeal No. 3 of 1953

Appellant : Pamma Ram

Respondent : Chet Ram and ors.

Advocate for Def. : Tek Chand Chitkara, Adv. for No. 1 and; Sita Ram, Govt. Adv. for Nos. 2 and 3

Advocate for Pet/Ap. : M.L. Saxena, Adv.

Disposition : Appeal dismissed

Judgement :

Ramabhadran, J.C.

1. This is a workman's appeal under Section 30, Workmen's Compensation Act, against an order of compensation passed by the Commissioner for Workmen's Compensation, Mahasu. The appellant was employed as a labourer on the Hindustan-Tibet Road, near Theog. He was employed by a contractor, named Chet Ram, who was working on behalf of the State P. W. D. As a result of rock burst, the appellant was severely injured and lost the vision of both eyes.

The learned Commissioner found that the Hima-chal Pradesh P. W. D. was the principal employer and they were liable to pay compensation. The Commissioner's finding is that the appellant was earning Rs. 27/- per day. In conformity with Schedule IV of the Act, he awarded the workman appellant a sum of Rs. 2,520/- as compensation.

2. In appeal, it was argued by learned counsel that the finding of the Commissioner on this point was erroneous. It is contended that the appellant was earning Rs. 3/4/- per day and as such he should have been awarded a sum of Rs. 4,200/- as compensation under Schedule IV. As regards the appellant's wages, a specific issue in this regard was framed by the Commissioner. His finding is that the appellant was being paid Rs. 1/12/- per day plus annas four per day on account of the special nature

of the work. In coming to this conclusion, the Commissioner has relied upon the statement of the S. D. O., P. W. D, Learned counsel for the appellant cited, 'inter alia', --'Devidayal Ralyasam v. Secy of State', AIR 1937 Sind 288 (A), where it was held:

'If a substantial question of law arises, the High Court can consider the case as a whole on points of facts as well as on points of law, in an appeal under Section 30, Workmen's Compensation Act.'

3. Learned Government Advocate, on the hand, cited--'Cooling Equipment Co., Ltd. v. Mt. Zainalu Bibi', AIR 1943 Lah 52 (B), where a Division Bench of that High Court observed:

'It is not correct to say that under Section 30 once an appeal is admitted on a substantial question of law, the whole case including all questions of fact is open to investigation by the High Court. The proper interpretation to be put upon the proviso is to limit the power of the Court to in-terfere only in such findings of fact as may be necessary for the determination of the questions of law involved. Where the question of fact is wholly independent of any question of law, the High Court in appeal is bound by the finding of fact, arrived at by the Commissioner.'

He also cited--'Ali Mahomed Jumardikhan v. Shankar Tukaram', AIR 1946 Bom 169 (C), where a Division Bench of that High Court held that:

'The High Court is not entitled to interfere with the findings of fact arrived at by the Commissioner for Workmen's Compensation except on a substantial question of law, and that includes a finding of fact which is not based upon evidence.'

In the present case, it cannot be said that the Commissioner's finding on the point of wages is not based on evidence. The Commissioner was inclined to rely on the statement of the S. D. O. and to base his conclusions thereupon. It cannot, therefore, be said that the Commissioner's finding is not based on legal evidence. In view of the restricted nature of the appeal, contemplated by Section 30, Workmen's Compensation Act, I cannot see that there are grounds for interference in appeal. If the Commissioner's finding that the appellant was being paid Rs. 2/- per day (or Rs. 60/- per mensem) is accepted, then it follows the compensation awarded has been rightly calculated in accordance with the Schedule IV to the Act.

4. In the result, the appeal fails and is rejected, but, having regard to the pitiable condition of the appellant, I make no order as to costs.