
(2007) 02 PAT CK 0202

Patna High Court

Case No: Miscellaneous Appeal No. 26 of 2000

Smt. Phulia Devi and Another

APPELLANT

Vs

Smt. Geeta Devi and Another

RESPONDENT

Date of Decision: Feb. 19, 2007

Acts Referred:

- Workmens Compensation Act, 1923 - Section 2(1)(d)(i)

Citation: (2007) 2 PLJR 531

Hon'ble Judges: Syed Md. Mahfooz Alam, J

Bench: Single Bench

Advocate: Ajay Kumar Sinha, for the Appellant; Vindhya Keshri Pd. Singh and Ranjan Sinha for the respondent No. 1, for the Respondent

Final Decision: Allowed

Judgement

Syed Md. Mahfooz Alam, J.

This Miscellaneous Appeal has been preferred against the order dated 20.12.99 passed by the Deputy Labour Commissioner-cum-Commissioner Workmen's Compensation, Tirhut Division, Muzaffarpur, in W.C.D. Case No. 7/99 distributing the compensation amongst the heirs of the deceased workman. Smt. Phulia Devi wife of late Basudeo Rai and Dharmendra Rai son of late Basudeo Rai being aggrieved by the said order of distribution of compensation have preferred this appeal.

2. The main contention of the learned Advocate of the appellants is that the deceased Surendra Rai was appointed on compassionate ground as his father Basudeo Rai died in harness working under Bihar State Electricity Board. The appointment of Surendra Rai was made by Letter No. 6 dated 11.1.93 (Annexure-3) on condition that he will maintain the widow and other heirs of Basudeo Rai. He joined his service on 12.1.93 after giving an undertaking to that effect. It is said that Basudeo Rai had left behind his widow, two sons and a daughter. Another son of Basudeo Rai was minor, and as such, Surendra Rai was appointed on compassionate

ground as the widow of Basudeo Rai did not prefer her claim. Further case is that Surendra Rai also died on 24.6.98 due to accidental death caused by electric shock and then the heirs of Surendra Rai claimed compensation under Workmen's Compensation Act and as per the admitted case of the parties a sum of Rs. 2,16,910/- was awarded as compensation. As per the impugned order the compensation was distributed amongst the dependents of Surendra Rai in the following manner:

Smt. Geeta Devi : Rs. 21,910.00 through cheque & Rs. 1,20,000.00/- by way of fixed deposit.

Smt. Phulia Devi: Rs. 25,000.00 through cheque & Rs. 25,000.00 by way of fixed deposit.

Dharmendra Rai: Rs. 25,000.00 by way of fixed deposit.

3. It has been submitted by the learned Advocate of the appellants that during the pendency of this appeal, Smt. Geeta Devi was allowed family pension besides that gratuity amount was also paid to her. Learned Advocate further submitted that as per the definition of "dependent" u/s 2(1)(d)(i) of the Workmen's Compensation Act, 1923 the widow mother stands in equal footing with that of widow of the workman and so, at least half of the amount should have been awarded in favour of appellant no.1 (widow mother). He further submitted that the appellant No. 2 Dharmendra Rai, minor son of late Basudeo Rai also comes under the definition of dependent as per section 2(1) (d)(i) of the Workman's Compensation Act, 1923, as such, he is also entitled to get share in the compensation.

4. Learned Advocate of the respondents submitted that although the appellants are the heirs and dependents of the deceased workman but it is the discretion of the court to apportion the compensation amount according to the needs of the claimants and as per the impugned order the compensation has been distributed amongst the dependents of the deceased workman as per the requirements and needs of each dependent of the deceased workman and, so, there is no need of any interference in the order.

5. From the materials available on record, it is an admitted fact that on account of death of Basudeo Rai, his widow (Appellant No.1) is getting family pension, whereas, on account of death of Surendra Rai (workman), his widow (Respondent No. 1) is getting family pension. In such view of the matter, I am of the view that it will be just and proper to divide the entire amount equally in between the widow of the deceased workman on the one hand and appellant no. 1 and 2 on the other hand.

6. Accordingly, this Miscellaneous Appeal is allowed to the extent indicated above and the Deputy Labour Commissioner-cum-Commissioner Workmen's Compensation, Tirhut Division, Muzaffarpur, is directed to release the amount within one month from the date of receipt/production of a copy of this order and

distribute the amount half and half between the appellants on the one hand and the respondent no. 1 on the other hand. In the result, this Miscellaneous Appeal is allowed in part.