A JYOTHI ADEMMA

v.

PLANT ENGINEER, NELLORE AND ANR.

JULY 11, 2006

B [ARIJIT PASAYAT AND LOKESHWAR SINGH PANTA, JJ.]

Labour Laws:

Workmen Compensation Act, 1923; Section 3:

C

Workman died at workplace due to heart attack—Compensation—Awarded by Commissioner—Challenge to—Allowed by High Court holding that death of the workman not caused by any accident arising out of and in the course of employment—On appeal, Held: For seeking compensation, the D *petitioner requires to establish some causal connection between the death of the workman and his employment—If the employment is a contributory cause/ accelerated the death, it can be said that death arose out of the employment and the employer would be liable—In the instant case, doctor's report confirms that there is no scope for any stress or strain in performing duties by the workman—Hence, the findings recorded by the High Court does not suffer* E *from any infirmity—However, since the amount of compensation already paid to the wife of the deceased, the amount so paid shall not be recovered though she is not entitled to any compensation.*

Words and Phrases:

F *'Accident'—Meaning of in the context of Workmen Compensation Act.*

The appellant's husband was working in a Thermal Station. He died at the work place. Appellant filed an application before the Commissioner seeking compensation on the ground that the death was caused due to stress and strain of the working conditions, and therefore, attributable to G **an accident arising out of and in the course of employment. The Commissioner made an award in favour of the appellant. The respondents filed an appeal under Section 30 of the Workmen Compensation Act before the High Court. The High Court observed that the workman died due to heart attack at the work place; that the nature of the job which the**

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deceased workman was doing could not have caused any stress and strain and, therefore, the death due to heart attack can not be said to have been caused by any accident arising out of and in the course of his employment. Hence the present appeal. A

The appellant contended that whenever a person dies as a result of heart attack at the work place, it can be said that he died due to the stress and strain of the working conditions; that the Commissioner was right in awarding the compensation as he had indicated reasons in support of his conclusion, therefore, the order of the Commissioner should be restored. B

Disposing of the appeal, the Court C

HELD: 1.1. In terms of Section 3(1) of the Workmen Compensation Act, it has to be established that there was some causal connection between the death of the workman and his employment. If the workman dies as a natural result of the disease which he was suffering or while suffering from a particular disease he dies of that disease as a result of wear and tear, of the employment no liability would be fixed upon the employer. But if the employment is a contributory cause or has accelerated the death, or if the death was due not only to the disease but also the disease coupled with the employment, then it can be said that the death arose out of the employment and the employer would be liable. [403-G-H; 404-A] D E

1.2. The expression "accident" means an untoward mishap which is not expected or designed. "Injury" means physiological injury. It was observed that the expression "accident" is used in the popular and ordinary sense of the word as denoting an unlooked for mishap or an untoward event which is not expected or designed. [404-B-C] F

Fenton v. *Thorley & Co. Ltd.*, (1903) AC 448 and *Trim Joint District, School Board of Management* v. *Kelly*, (1914) A.C. 676, referred to.

1.3. In the present case it has been brought on record that the deceased was suffering from chest disease and was previously being treated for such disease. The High Court also noted that the job of the deceased was only to switch on or off and, therefore, the doctor had clearly opined that there was no scope for any stress or strain in his duties. In view of the factual findings recorded the High Court's judgment does not suffer from any infirmity. [404-D] G H

A **1.4. Considering the peculiar circumstances of the case, no recovery shall be made from the appellant of any amount paid, though she is not entitled to any compensation. [404-F]**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6201 of 2004.

B From the Judgment and Order dated 12.9.2003 of High Court of Judicature of Andhra Pradesh at Hyderabad in Appeal against Order No. 3387/2001.

V. Sridhar Reddy and Abhijit Sengputa for the Appellants.

C The Judgment of the Court was delivered by

ARIJIT PASAYAT, J. Appellant calls in question legality of the judgment rendered by a learned Single Judge of the Andhra Pradesh High Court holding that the appellant was not entitled to any compensation under the Workmen Compensation Act, 1923 (in short the 'Act'). The appeal filed D by the respondents under Section 30 of the Act was allowed by the High Court. The Commissioner for Workmen's Compensation (in short 'Commissioner') had awarded a sum of Rs.61,236/- by award dated 16.6.2001, which was challenged by the respondents before the High Court.

E Background facts in a nutshell are as follows:

Mr. J. Venkaiah, the appellant's husband (hereinafter referred to as the 'deceased workman'), was working in Nellore Thermal Station, Nellore. On 24.9.1994 he died at the work spot. Appellant filed an application before the Commissioner claiming compensation of Rs.1,00,000/-. Her stand in the claim F petition was that the death was due to stress and strain closely linked with the employment of the deceased workman and, therefore, attributable to an accident arising out of and in the course of employment. The plea found favour with the Commissioner who made the award as noted above. The respondents filed an appeal under Section 30 of the Act before the High Court. The primary stand was that the deceased workman did not die on G account of any injury sustained by him "in any accident arising out of and in the course of his employment". The High Court noted that there was no injury as such, but he died due to heart attack at the work spot. The High Court found that the nature of the job which the deceased workman was doing could not have caused any stress and strain and, therefore, the death H due to heart attack can not be said to have been caused by any accident

arising out of and in the course of his employment. A

In support of the appeal, learned counsel for the appellant submitted that whenever a person dies as a result of heart attack at the work spot, it can be said that he died due to the stress and strain of the working conditions. He, therefore, pleaded that the order of the Commissioner should be restored and that of the High Court be set aside, as the Commissioner had indicated B reasons in support of his conclusions.

There is no appearance on behalf of the respondents.

Section 3(1) of the Act which is relevant for the purpose of this case reads as follows:- C

> "3. *Employer's Liability for Compensation.* - (1) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter : D
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> Provided that the employer shall not be so liable - (a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding three days;
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> (b) in respect of any injury, not resulting in death or permanent total disablement, caused by an accident which is directly attributable to - E (i) the workman having been at the time thereof under the influence of drink or drugs, or
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> (ii) the willful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or F
>
> (iii) the willful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen."

Under Section 3(1) it has to be established that there was some casual G connection between the death of the workman and his employment. If the workman dies a natural result of the disease which he was suffering or while suffering from a particular disease he dies of that disease as a result of wear and tear, of the employment no liability would be fixed upon the employer. But if the employment is a contributory cause or has accelerated the death, H

A or if the death was due not only to the disease but also the disease coupled with the employment, then it can be said that the death arose out of the employment and the employer would be liable.

The expression "accident" means an untoward mishap which is not expected or designed. "Injury" means physiological injury. In *Fenton* v. B *Thorley & Co. Ltd.* (1903) AC 448, it was observed that the expression "accident" is used in the popular and ordinary sense of the word as denoting an unlooked for mishap or an untoward event which is not expected or designed. The above view of Lord Macnaghten was qualified by the speech of Lord Haldane A.C. in *Trim Joint District, School Board of Management* C v. *Kelly,* (1914) A.C. 676 as follows:

> "I think that the context shows that in using the word "designed" Lord Macnaghten was referring to designed by the sufferer".

In the present case it has been brought on record that the deceased was D suffering from chest disease and was previously being treated for such disease. The High Court also noted that the job of the deceased was only to switch on or off and, therefore, the doctor had clearly opined that there was no scope for any stress or strain in his duties. In view of the factual findings recorded the High Court's judgment does not suffer from any infirmity.

E However, it has to be noted that the amount has already been paid to the appellants, as stated by learned counsel.

Considering the peculiar circumstances of the case, we direct that there shall be no recovery from the appellant of any amount paid, though in view of our judgment she is not entitled to any compensation.

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The appeal is accordingly disposed of. No costs.

S.K.S. Appeal disposed of.