

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.52 OF 2000

The State of Maharashtra
through the Regional Dairy
Development Officer,
Government Milk Scheme,
Aurangabad Region, Aurangabad ..Appellant

Versus

- 1] Yasmin Begum w/o. Sk. Ibrahim,
age 28 years, occ. household,
r/o. c/o. Shaikh Husain Shaikh
Kalu, at Post. Chapuet,
Tq. Kannad, Dist.Aurangabad.
- 2] Imman s/o. Sk. Ibrahim,
age 4 yrs., minor u/g. Of
applicant no.1
- 3] Azhar s/o. Sk. Ibrahim,
age 2 yrs., minor u/g. Of
applicant no.1
- 4] Tabassum d/o. Sk. Ibrahim
age 5 yrs., minor u/g. Of
applicant no.1 ..Respondent

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Mr.S.P.Dound, AGP for appellants
Mrs.A.N.ansari, advocate for respondents

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CORAM : M.T. JOSHI, J.
DATE : JANUARY 05, 2015

ORAL JUDGMENT :

Heard both sides.

2] In the present appeal preferred against the judgment and award passed by learned Commissioner under Workmen's Compensation Act, the challenge is on the ground as to whether, the death of the deceased had occurred during the course of the employment.

3] The facts of the case are that the deceased was working as an Electrician in the Government Milk Scheme, Loha, District Nanded. He, admittedly, died during the working hours. The evidence on record from both the sides would show that on 17th July, 1991, the deceased was sent by his Supervisor to make inquiry about the fluctuation in the supply of electricity, to the office of the Electricity Board and while returning back on a motorcycle to the own office

of the deceased from the office of the Electricity Board, the accident had occurred in which, the deceased died.

4] In the written statement, it was averred that since compassionate appointment has been given to the wife of the deceased i.e. present respondent no.1 – Yasmin Begum, no claim could have been made.

5] In the result, following substantive questions of law have arisen :-

a] Whether, learned Commissioner has committed patent error in arriving at the conclusion that the accident has occurred during the course of the employment ?

b] Whether, the defence of appointment of respondent on.1 – wife of the

deceased, on the compassionate ground can be taken into consideration in the present proceedings ?

6] My answer to the above points 1 and 2 is in negative and the present appeal is, therefore, dismissed for the reasons to follow.

R E A S O N S

7] It is an admitted fact that the accident had occurred during the office hours. The deceased was sent by his Supervisor to the office of the Electricity Board to make inquiry about the fluctuation in the supply of electricity, and while returning back on a motorcycle to the own office of the deceased from the office of the Electricity Board, the accident had occurred in which, the deceased died. In the circumstances,

the accident has clearly occurred during the course of the employment of the deceased with the appellant. Learned Commissioner, therefore, has not committed any error in coming to the said conclusion.

8] The appointment of the wife of the deceased, present respondent no.1, as per the rules on compassionate ground upon the death of the deceased, would not be a bar to claim the compensation. Therefore, the plea of the appellant in this regard deserves rejection.

9] In the result, the following order :-

. The First Appeal is dismissed with no order as to costs.

[M.T. JOSHI, J.]