

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No.1217 of 2010

1. Raimunbai W/o Amrica Sahu, aged about 55 years.
 2. Kumari Bai W/o Ankaluram Sahu, aged about 41 years.
 3. Narbada Bai W/o Ratiram, aged about 52 years.
- All are R/o Village Kaldabri, Tahsil and Thana Dongargaon, District Rajnandgaon.

---Appellants

Versus

1. Durgaprasad Thakur S/o Firanlal Thakur, aged about 25 years, R/o Village Kaldabri, Tahsil and Thana Dongargaon, District Rajnandgaon.
 2. Iswarilal Sahu S/o Sampatlal, aged about 40 years, R/o Village Kolihpuri, Tahsil and Thana Dongargaon, District Rajnandgaon.
 3. United India Assurance Company Ltd. Through Branch Manager, Kamtee Line Rajnandgaon.
 4. Shobha Ram S/o Sampatlal Sahu, aged about 40 years.
 5. Smt.Dulsiyabai W/o Shobharam, aged about 45 years.
 6. Ku.Tameshwari D/o Shobharam, aged about 17 years.
- Respondent Nos. 4 to 6 are R/o village Chichari, (Khurd), Thana and Tahsil Dongargaon, District Rajnandgaon.

---Respondents

For appellants	:	None.
For respondent Nos.1 & 2	:	Shri Aditya Kumar on behalf of Shri P.P.Sahu, Advocate
For respondent No.3	:	Shri Dashrath Gupta, Advocate
For respondent Nos. 4 to 6	:	Shri Abhishek Sharma, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03/10/2017

1. Present is an appeal under Section 30 of the Workmen Compensation Act challenging the award dated 22/10/2010 passed by the Commissioner for Workmen Compensation Labour Court, Rajnandgaon in Case No.127/WC Act/2007 (Fatal). Vide the said impugned award the learned Commissioner has rejected the claim application seeking compensation under the Workmen Compensation Act filed by the claimants on the ground that, they did not fall within the

definition of dependent under the Workmen Compensation Act and have ordered for the compensation to be made payable to the respondent No.4 – the father of the deceased.

2. It is a case where the deceased – Hemnarayan Sahu met with an accidental death on 28/09/2007. The respondent No.4 is the father, respondent No.5 was the step mother and respondent No.6 was the step sister of the deceased.

3. The claim so far as step mother and step sister i.e. respondent Nos. 5 & 6 has been denied by the Commissioner and which has not been questioned by the respondent Nos. 5 and 6. The present appeal has been filed by the claimants who are the maternal grand mother and the maternal aunt of the deceased – Hemnarayan Sahu.

4. At this juncture, it would be relevant to refer to Section 2(1)d of the Workmen Compensation Act which defines “dependant” as under :-

Section 2(1)(d): Dependant – The expression 'widowed mother' does not include 'widowed step-mother'. Munado Devi v.Bengal Bone Mill, AIR 1940 Cal 285; followed in Director (T & M), D.N.K.Project, (1988) 1 LLN 445: 1987 Lab IC 1795. Minor brother includes minor uterine brother. General Manager, Gwalior Sugar Co.Dabra v.Sri Lal, AIR 1958 MP 133. Minor brothers of the workman who dies as a result of accident are dependants. Ram Sarup v. Gurdev Singh, (1968) 1 LLJ 80 (Punj): 1969 Lab IC 371. The specific finding of fact was that the minor brother was totally dependant on the earning of deceased workman on the date of accident. Such a person comes within the meaning of

expression “dependant”. National Insurance Co.Ltd. V. Ranjulata Bhuyan, 1996 Lab IC 274 (Ori). A major brother is not a dependant. Gopal Synthetics v. Commr. For Workmen's Compensation, (1994) 2 LLN 683: 1994 Lab IC 1968: (1994) 2 Cur LR 874 (Raj). Divisional Manager, New India Assurance Co.Ltd. V. S.B.Singh, 2003 Lab IC 598 (Ori). The words “notwithstanding anything contained in the Workmen's Compensation Act, 1923” in Section 110-AA of the Motor Vehicles Act also include the provisions regarding the definition of the dependants in Section 2(1)(d) of the present Act. Anthony Labo V. C.M.Merchand, 1979 Lab IC 61 (Bom). A widow after her re-marriage can claim compensation. R.B.Moondra & Co. v. Bhanwari, 1970 Lab IC 695 (Raj); Veerappan v. Muthamma, (1994) 2 LLN 1259: (1994) 2 Cur LR 870 (Ker) (DB); Hariram v. Commr. For Workmen's Compensation, (1994) 2 ACJ 1094 (MP). Sister of mother of the deceased does not fall within the definition of 'dependant' under the Act and as such she was not entitled to compensation in her capacity as 'dependant' of the deceased. United India Insurance Co. v. Harinakshi, 1998 Lab IC 2493 (Karn).

The definition of 'dependant' in Section 2(1)(d) is an inclusive one. It does not postulate the exclusion of the dependants of one category by the dependants of the category preceding it. New India Assurance Co. Ltd. v.

Nansingh, (1984) 2 LLN 392 (MP): (1984) 1 LLJ 186. In St. Joseph's Automobile and Mechanical Works v. Maria Soosia Pillai, 65 LW 897 [also (1952) 2 MLJ 436], the question was whether the father of an infant workman was a dependant. It was pointed out that he could be regarded as a dependant only when he could establish that he was really dependant on the earnings of the workman wholly or partly. It was also observed that dependency with reference to the date of the death of the workman, and the fact that at a future date the father might have to depend upon the son was not a relevant consideration. See also Gopal Synthetics v. Commr. for Workmen's Compensation, (1994) 2 LLN 683: 1994 Lab IC 1968: (1994) 2 Cur LR 874 (Raj). The law does not require that the widower should be wholly dependant on the earnings of the deceased wife. Partial dependence to whatever extent it may be, is sufficient to bring him within the four corners of this provision. Divl. Manager, New India Assurance Co. Ltd. v. Rahidas Sabar, 1998 Lab IC 2447 (Ori).

Parents of the deceased who were partly dependant on him are entitled to compensation. Dhan Singh v. Pepsu Road Transport Corpn., (1993) 1 Cur LR 750: (1994) 1 LLN 800: (1994) 68 FLR 329 (P&H).

Parents of a married daughter who had neither pleaded nor proved that they were dependant on the deceased daughter are not entitled to the compensation. Special

Officer, PAP Workers Industrial Coop. Society Ltd. v. Ayyammal, (1994) 2 Cur LR 586: (1994) 2 LLN 1117: 1995 LLR 115 (Mad)(DB).

The parents who did not get any advantage from the earnings of the deceased but were entitled to receive the same in normal circumstances, are included in the relevant definition clause of the word 'dependent'. Ramji v. Lalit Kumar Bardiya, (1995) 1 LLJ 910: 1995 ACJ 877: (1994) 2 TAC 676 (MP).

The parents of the deceased workmen dependent upon his earnings will be entitled to compensation. Boys Town Society, Tirumangalam v. Palani, (1997) 77 FLR 229 (Mad).

The definition in Section 2(1)(d) includes an illegitimate child born of an adulterous intercourse, when it appears that the child is supported by the putative father. 47 Born LR 832: AIR 1946 Born 110: ILR 1945 Born 871. The definition is exhaustive. The definition excludes a step-mother. The question of dependency is a question of fact, and it must be proved to sustain a claim for compensation. AIR 1939 Rang 369. 'Sister' includes a uterine sister. A. Alice v. Commr. for Workmen's Compensation, 1987 Lab IC 385 (Ker)(DB): (1986) 2 LLN 1137.

A concubine of the deceased, not being a widow, cannot be characterised as dependent for the purpose of a claim for compensation. However, the children of

***deceased born through her, even though illegitimate,
were entitled to compensation. Laxmirani Behera v.
Commr. of Workmen's Compensation, 2000 Lab IC
1833: (2000) 3 Cur LR 63 (Ori).***

5. Perusal of the category of the persons who have been declared as dependents in the aforementioned provision does not reveal maternal grand parents and Aunts as dependents.

6. What is also relevant at this juncture is the fact that, the father of the deceased was alive and since father being one of the parents of the deceased has been reflected as dependent under Section 2(1)d of the Act, the Commissioner has awarded compensation payable only to the father.

7. This court does not find any strong case made out by the claimants for interfering with the impugned award for a direction of payment of compensation to the present appellants.

8. In the absence of any strong materials produced with which it could be said that the finding of the Tribunal is bad in law, the appeal deserves to be and is accordingly dismissed.

**Sd/-
(P. Sam Koshy)
Judge**