

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 3104 of 2021

Date of Decision: 03.12.2021

Smt.Veena and Another

... Petitioner(s)

Versus

Zile Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sushil Kumar Verma, Advocate
for the petitioner(s).

Anil Kshetarpal, J.

1. It is an unfortunate litigation between the dependents of late Sh.Bittoo son of Sh.Zile Singh. An application under the Employees' Compensation Act, 1923 (hereinafter referred to as "the 1923 Act") was filed by the widow and minor child of late Sh.Bittoo by impleading Sh.Zile Singh (late Sh.Bittoo's father) as a proforma respondent. The application was allowed by the Commissioner under the 1923 Act vide an order dated 14.03.2016. Sh. Zile Singh filed an application for amendment of the order on the ground that he is also one of the dependents. The same has been allowed by the Commissioner under the 1923 Act vide order dated 30.12.2020, the correctness whereof, has been assailed by the petitioner.

2. The learned counsel representing the petitioners contends that the provisions of the Code of Civil Procedure, 1908, are not applicable to the proceedings under the 1923 Act and therefore, no application 152 CPC, for the amendment of the order was maintainable. He further contends, that the

deceased's father is not included in the definition of the "dependent" under Section 2(d) of the 1923 Act.

3. As regards the first objection, there is some substance in the argument of the learned counsel, however, merely because a wrong provision has been referred to, the Court should not be debarred from granting a relief. Hence, the application in question is treated without referring to the provisions of the Code of Civil Procedure, 1908.

4. As regards the second argument, it is necessary to analyze the definition of the dependent in Section 2(d) of the 1923 Act, which is extracted as under:-

"2. Definitions-(1) In this Act, unless there is anything repugnant in the subject or context,

(a) to c) XXXX XXXX XXXX XXXX

*(d) "dependant" means any of the following relatives of deceased *[employee], namely:-*

(i) a widow, a minor legitimate or adopted son, an unmarried legitimate or adopted daughter or a widowed mother; and

*(ii) if wholly dependant on the earnings of the *[employee] at the time of his death, a son or a daughter who has attained the age of 18 years and who is infirm;*

(iii) if wholly or in part dependant on the earnings of the [employee] at the time of his death-

(a) a widower,

- (b) *a parent other than a widowed mother;*
- (c) *a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate or adopted if married and a minor or if widowed and a minor;*
- (d) *a minor brother or an unmarried sister or a widowed sister if a minor; (e) a widowed daughter-in-law,*
- (f) *a minor child of a pre-deceased son,*
- (g) *a minor child of a pre-deceased daughter where no parent of the child is alive, or*
- (h) *a paternal grandparent if no parent of the [employee] is alive”.*

5. It is evident that under Clause (b) of Sub-Section (iii) to Section 2(d) of the 1923 Act, a parent other than a widowed mother has been included. The parent includes the mother and the father. The argument of the learned counsel is that as it has been provided in the definition that “a parent other than a widowed mother”, as a result, the father of the deceased would not come within the definition of “dependent”. From a careful reading of the provisions in entirety, it is clear that under Clause (b) of Sub-Section (iii) to Section 2(d) of the 1923 Act, the term “widowed mother” has been excluded, because she has been included in Section 2(d)(i) of the 1923 Act, *ibid*. Furthermore, Sh.Zile Singh, the deceased’s father was party to the proceedings, may be proforma. If the Act itself recognizes the right of any of

aforesaid mistake.

6. Hence, no ground to interfere is made out. Consequently, the present revision petition is dismissed.

(Anil Kshetarpal)
Judge

December 03, 2021

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No