

IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH

DATED THIS THE 13TH DAY OF SEPTEMBER, 2019

BEFORE

THE HON'BLE MR.JUSTICE N.K.SUDHINDRARAO

Karnataka State Road Transport Corporation –v/s. Annapurna and
others

MFA No.31896/2010 (WC)

JUDGMENT

This appeal is directed against the judgment and order passed by the learned Labour Officer and Commissioner for Workmen's Compensation, Sub-Div.-I, Bijapur wherein the claim petition filed in WCA/SR No.45/2003 by `Smt. Annapurna and others came to be allowed in part and a compensation amount of Rs.3,79,120/- came to be awarded together with interest at the rate of 12% per annum.

2. The appellant is Managing Director, KSRTC Bijapur Division, represented by Chief Law Officer, Central Office, Sarige Sadan, Kalaburagi. The substance of the facts that gave rise for initiating the proceedings before the Commissioner is that one Basavaraj who was working as a Conductor died on 27.09.2000 by committing suicide at Santosh Lodge, Bijapur because of the insult passed on to him by the Officers and Staff of the appellant-Corporation. Basavaraj was suspended for committing pilferage in revenue and misappropriation. In this connection, his dependants namely, wife, children and parents made a claim petition in WCA/SRNo.45/2009 which came to be allowed on 15.05.2009. It is against this order, the respondent - Corporation has come in appeal.

3. The learned Commissioner allowed the application filed after condoning the delay of 2733 days and took out the application for disposal on merits and granted a compensation of Rs.3,79,120/-.

4. This Court has framed the following substantial questions of law on 12.03.2018:

1. Whether the Commissioner for Workmen's Compensation justified in awarding compensation of Rs.3,79,120/- to the L.Rs of the deceased, when the deceased was not in employment as on the date of death (suicide by himself on 27-09-2000)?
2. Whether the Commissioner for Workmen's Compensation justified in awarding the compensation when the original employee suspended from duty on 18-06-2000 and hanged himself on 29-07-2000 without employment?
3. Whether the Commissioner for Workmen's Compensation justified in granting compensation ignoring the entire material on record in the facts and circumstances of the case?

The substantial questions of law are re-framed as under in the presence of learned counsel for both the parties in the open Court:

- (i) Whether the death of Basavaraj on

27.09.2000 at Santosh Lodge, Bijapur was due to reasons arising out of and in the course of employment?

- (ii) Whether the incident that took away the life of said Basavaraj fits in Section 3 of the Workmen's compensation Act?

5. Learned counsel Sri Shivashankar H. Manur appearing for the appellant-Corporation would submit that the death of Basavaraj on 27.09.2000 was not due to accident and in no way the employer was responsible for his death.

6. Learned counsel would further submit that the death of the said Basavaraj was due to the reason outside employment and guilty conscience of the deceased. He would further submit that the learned Member failed to appreciate the legal principles for granting compensation under the Workmen's Compensation Act.

7. *Per contra*, Sri Babu H. Metagudda, learned counsel appearing for the respondent - claimant would submit that the Act under which compensation is claimed is a social legislation that provides for compensation for the injuries sustained in an accident arising out of and in the course of employment. Learned counsel would further submit that though the deceased was under suspension, he

was not terminated from service thereby he suits to the definition of 'workman' or 'employee' and it is undisputed that the claimants exclusively depend on him and they are entitled for compensation.

8. Accident in its ordinary parlance is 'an untoward incident', 'a mishap' beyond control of the concerned persons or the circumstance. It purely occurs due to unwanted and uninvited circumstances without any design or desire of the victim. The meaning of the term accident has to be applied from angle of the victim, be it an injured or the deceased.

9. Section 3 of the Employees Compensation Act, 1923 (for short 'the Act') provides for compensation to a workman for the injuries suffered by him out of and in the course of employment and in case of his death to his dependants.

10. The Act came as a reformative measures for dogmatic defences maintained by the employers during 19th century and the previous statute that protected the employees and dependants is Fatal Accident Act, 1855. Prior to which the defence was so serious and strong that even the death was not considered for compensation wherein the employer or the person liable used to forward the defence of *actio personalis moritur cum persona*. The term 'out of employment' is used to mean 'because of' and the 'course' is

used to mean 'during the continuance of the employment'. Under these circumstances the Fatal Accident Act, 1855 brought a ray of hope.

11. The present Employees Compensation Act provides for compensation to an injured workman for any injuries sustained out of and during the course of employment and compensation for his dependents in case of death out of and in the course of employment, meant end of cause with the death of a person.

12. Further, in respect of occupational diseases such as silicosis, employees working in silk thread extracting process, etc. They are exposed to a particular kind of atmosphere that would be very likely to cause certain diseases which are regarded as occupational diseases. When once occupational diseases are established, it is considered as accident arising out of and in the course of employment.

13. The nature and meaning of accident is not from the angle of third person, for example, if a loaded weight were to fall on a person, which is seen by a by-stander at a distance, the latter would be having knowledge that particular weight is falling but not the concerned person.

14. The meaning of accident is considered from the

point of the person who is victim. As a matter of fact, a workman is murdered during the employment. Homicide caused by the other person on the victim the result of which is that victim workman dies. From the point of workman he does not have any design or expectation or knowledge that some mishap is going to occur and he dies that was known to the accused or the assailant but not the workman.

15. Thus, such murder is also an accident in this connection. Even a workman in case of injuries or dependants in case of death may also claim under the doctrine of notional extension of employment which covers places beyond actual employment premises.

16. In the present case, as claimed by the dependants, the deceased Basavaraj was working as a Conductor and he was caught for misconduct and misappropriation. The charges leveled against him were pilferage in the revenue and issuing duplicate tickets. In this connection he was caught red handed and in this connection the police enquiry was conducted and this investigation procedure caused annoyance and harassment. However, in this connection the deceased or the claimants have not chosen to initiate proceedings for malicious prosecution or annoyance if they felt so. Further, the case is that Basavaraj is disturbed from the acts and conduct of the employer and colleagues and other persons

who were making mockery of him because of which he felt depressed and finally he resorted for extreme step on 27.09.2000 on which date he committed suicide by hanging and breathed last. A person who objects commission of suicide is liable for punishment under Section 306 IPC which is as under:

“306. Abetment of suicide – If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

17. Thus, the instigation to commit suicide becomes an offence wherein the victim is pushed to such a platform from which he will not have any alternative except to commit suicide. Whether act of other or others instigated the victim or otherwise has to be assessed from an independent and unbiased angle, but, not from the angle of the victim or the instigator.

18. Accident means as stated above, it is unforeseen and untoward incident, a mishap that occurs without any design. But in this case deceased Basavaraj committed suicide in a room of Santosh Lodge at Vijayapur. Suicide literally means “murdering oneself”. Thus, a person decides to leave the planet and chooses his own measure or means to put an end to his life. Irrespective of whether instigation or otherwise insofar as the victim develops a determined intention it would not be known to anybody except the

deceased till he implements his plan. So there is no question of calling the incident of suicide as accident. There is vast a difference between suicide and accident. The suicide is committed with full-fledged and direct knowledge pursuant to his determination.

19. In the circumstances, in the present case enabling circumstances are that Basavaraj was working as a Conductor in KSRTC. He was caught red handed. Criminal case was registered. He was subjected to insult or annoyance. He had to obtain anticipatory bail from High Court. He was depressed, suffered frustration and decided to die.

20. Under the circumstances, at any length of interpretation, the suicide definitely does not fall within the grove of accident.

21. In this connection, no doubt the dependants deserve sympathy but not by floating rules and provisions of law. The learned Labour Commissioner totally misunderstood the scope of Section 3 of the Act and the provisions relating to accident for compensation.

22. Learned counsel for respondent relied on a decision of the Apex Court in the case of *Leela Bai and another vs. Seema Chouhan and another* reported in 2019 (3)

SCJ 671. Para-9 of the said decision reads as under:

“9. In the facts of the present case and the nature of evidence, there was a clear nexus between the accident and the employment to apply the doctrine of “notional extension” of the employment considered in Agnes (supra) as follows:

“It is now well-settled, however, that this is subject to the theory of notional extension of the employer’s premises so as to include an area which the workman passes and repasses in going to and in leaving the actual place of work. There may be some reasonable extension in both time and place and a workman may be regarded as in the course of his employment even though he had not reached or had left his employer’s premises. The facts and circumstances of each case will have to be examined very carefully in order to determine whether the accident arose out of and in the course of the employment of a workman, keeping in view at all time this theory of notional extension.”

23. Learned counsel relying on the above decision would submit that the theory of notional extension of employment indicates that the premises of accident need not be exclusively confined to the premises of employment, further under certain circumstances it stretches beyond the employment premises.

24. In this connection, it is necessary to mention that the theory of notional extension covers place beyond the

employment premises. For example, when an employee is returning from the working place to the residence on a route provided by the employer or in the vehicle provided by the employer even if he goes exceed or cross kilometers away from the employment premises, that spot of accident is definitely covered under the theory of notional extension of employment.

25. In the present case it is not the case of extension of premises, as it was decision of the deceased to commit suicide that mattered all. In the circumstances, theory of notional extension of employment is in no way applicable to the case on hand.

26. Hence, I proceed to pass the following:

ORDER

The appeal is allowed. The judgment and award passed by the learned Commissioner in WCA/SR-45/2003 dated 15.05.2009 is hereby set aside. Consequently, the claim petition filed by the respondent is dismissed.

In case of deposit, if any amount is already drawn, the same shall be refunded to the appellant. Amount in deposit shall be refunded to the appellant.