2022 INSC 365

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2568 OF 2022
(arising out of SLP(c) No. 4010 of 2019)

C. MANJAMMA & ANR. ……Appellant(s)

VERSUS

THE DIVISIONAL MANAGER ……Respondent(s)
THE NEW INDIA ASSURANCE CO.LTD.

JUDGMENT

DINESH MAHESHWARI,J.

Leave granted.

The challenge herein is to the judgment and order dated 15.11.2018 passed by the High Court of Karnataka at Bengaluru in Miscellaneous First Appeal No. 10293 of 2012(WC), whereby the High Court has reversed the judgment and award dated 19.06.2012 passed in WC-DVGWCA No.76 of 2010 on the file of the Labour Officer and Commissioner for Workmen's Compensation, Davanagere('the Commissioner').

By the judgment and award dated 19.06.2012, the Commissioner had awarded compensation in the sum of Rs. 4,15,960/-(Rupees four lakh fifteen thousand nine hundred sixty) together with interest @ 12% per annum to the wife and mother of the deceased workman, said to be employed as a driver on the auto-rickshaw belonging to the respondent No. 2. The workman allegedly died while on duty due to cardiac arrest.

Shorn of unnecessary details, the relevant aspects of

the present case are that the Commissioner, while dealing with the claim made by the present appellants, framed the following issues for consideration:-

> **"1. Whether the petitioners have proved that, the deceased died due to driving strain on 07.04.2010 while working as driver in the autorickshaw bearing No.KA-17-A--6365 owned by the first respondent?**
> **2. Whether the petitioners prove that, they are the dependants of the deceased?**
> **3. Whether the petitioners have proved the monthly salary received by the deceased while working as driver in the auto rickshaw bearing No.KA-17-A-6365 owned by the first respondent and the age of the deceased?**
> **4. What compensation are the petitioners entitled for and from whom?**
> **5. What order?"**

The Commissioner returned the finding on issue No. 1, after examination of the material placed on record in the following manner: -

> **"…On examining the documents viz. Ex-P1 FIR, Ex-P2-Inquest mahazar, Ex-P3-Spot mahazar, Ex-P4-statement of the 1st respondent, Ex-P5-post mortem report, Ex-P8- Charge-sheet, Ex-P9- FSL report post mortem reports produced and got marked during examination of his sworn evidence, the second petitioner, it is considered that, the said documents are corroborative to the factors in the petition and sworn affidavit of the petitioners, it is confirmed that, the deceased died due to the driving strain on 07.04.2010 while working as driver in the auto rickshaw bearing No. KA-17-A-6365 owned by the first respondent and decide accordingly."**

In issue No. 2, the Commissioner held that the claimants were dependents of the deceased; and in issue No. 3, held that the deceased was 30 years of age and was receiving monthly wages of Rs.4,000/- and daily allowance of Rs.50/-

from the employer. While quantifying compensation and deciding liability in issue No. 4, the Commissioner assessed the amount of compensation at Rs. 4,15,960/- (Rupees four lakh fifteen thousand nine hundred sixty) with reference to the monthly wages of the deceased at Rs. 4,000/- (Rupees four thousand). The Commissioner also examined in detail the submissions made on behalf of the respondent-insurer and the affidavit filed on its behalf and ultimately recorded his conclusion on the liability of the insurer and the entitlement of the claimants in the following words: -

> **"…Auto rickshaw baring No. KA-17-A-6365 owned by the first respondent is insured with the second respondent and the said insurance policy is marked as Ex-R2-1 and the insurance policy was valid as on the date of accident and the driver of the vehicle is covered under the said insurance policy and on examining thoroughly and considering the factors addressed during arguments of the learned counsel for both the parties with regard to payment of compensation due to the first and second petitioner under law towards the death of the deceased, it is decided that, the second respondent is liable to pay compensation of Rs. 4,15,960-00 to the first and second petitioners under statute with regard to the death of the deceased."**

In the insurer's appeal against the judgment and award aforesaid, the High Court took note of the facts and circumstances of the case and the findings of the Commissioner and then, with reference to the decision of this Court in *Shakuntala Chandrakant Shreshti vs Prabhakar Maruti Garvali & Anr.*: (2007) 11 SCC 668, particularly paragraph 38 to 42 thereof, found the judgment and award

made by the Commissioner unsustainable for the following reasons: -

> **"21. As noticed hereinabove, there is no oral evidence with regard to admission of the workman into the hospital. Further, the cause of death is not forthcoming in the records. Therefore, in my considered view, the conclusion arrived at by the W.C. Commissioner that there exists a nexus between the cause of death and the occupation of workman is not supported by any evidence and therefore, the W.C. Commissioner does not get jurisdiction to award compensation."**

Assailing the judgment and order so passed by the High Court, learned counsel for the appellant has strenuously argued that in this case, the fundamental facts stand duly established by evidence produced on record that the deceased was 30 years of age; he was engaged as a driver on the auto-rickshaw; and he expired while on duty because of cardiac arrest, which he suffered due to the strain and stress of his job. Learned counsel would submit that on the basis of relevant material, the Commissioner had recorded cogent findings of fact and there had not been any perversity in such findings so as to call for interference by the High Court. Learned counsel would further submit that the decision in the case of *Shakuntala Chandrakant Shreshti*(supra) is clearly distinguishable because the deceased therein was engaged on the job of a cleaner on the vehicle and this Court consciously took note of the fact that nature of his duty, being of helper, was not such that it would cause stress or strain. Learned counsel has further drawn our attention to the observations made in

paragraph 38 of the said decision and has submitted that in the present case, the basic and foundational facts have been established by the claimants that it had been a case of death during the course of employment and having been caused due to the reasons attributable to the employment. Learned counsel has also submitted that there was no such substantial question of law involved in the matter so as to call for interference by the High Court.

***Per contra*, learned counsel for the respondent-insurer has duly supported the judgment and order passed by the High Court and has emphasised on the contentions that the appellants have failed to establish that the death occurred due to employment or due to reasons attributable to the employment. Learned counsel would rely upon the decision in *Shakuntala Chandrakant Shreshti* (supra). According to the learned counsel, since the claimants failed to prove the basic jurisdictional facts, the High Court has rightly interfered in the matter.**

Having given anxious consideration to the rival submissions and having examined the material placed on record with reference to the law applicable, we are clearly of the view that the impugned judgment and order cannot be sustained as there was no substantial question of law involved in the matter for which, the High Court could have interfered with the judgment and award made by the Commissioner.

As noticed above, the Commissioner had returned the

basic findings of fact with reference to the material placed on record. It is noticed that the claimants i.e., the wife and mother of the deceased, had indeed placed on record the FIR, inquest mahazar, spot mahazar, charge-sheet and post mortem report along with FSL report. The Commissioner, with reference to the said evidence as also after analysing the rebuttal evidence adduced by the respondent-insurer, recorded the findings which cannot be said to be perverse or suffering from any such manifest illegality so as to give rise to a 'substantial question of law' for consideration of the High Court.

Even in paragraph 42 of the decision in *Shakuntala Chandrakant Shreshti*(supra), this Court has made it clear that a question of law would arise when the same is not dependent on examination of evidence and which may not require any fresh investigation of fact. A question of law would arise, of course, when the finding is perverse or when no legal evidence is adduced to establish the jurisdictional facts. The observations made by the High Court in the present case in paragraph 21 appear to be rather of assumptive nature than of specific conclusion on perversity. In other words, the view as taken by the Commissioner was the one based on the material placed on record, which basically established that the deceased was indeed employed as a driver on the vehicle; he was 30 years of age; and he died while on duty and his demise due to cardiac arrest was attributable to his job of driver. There

had not been shown any other background aspect or any other clinching feature because of which death of the workman, a 30-year-old person, could be attributed to any other cause. That being the position, the view taken by the Commissioner had been a possible view of the matter in the given set of facts and circumstances; and there was no reason for the High Court to interfere with the same, particularly when the case did not involve any substantial question of law within the meaning of Section 30 of Employees Compensation Act, 1933.

For what have been discussed and observed hereinabove, this appeal succeeds and is allowed. The impugned judgment and order dated 15.11.2018 passed by the High Court of Karnataka at Bengaluru in MFA No. 10293 of 2012(WC) is set aside and the judgment and award of the Labour Officer and Commissioner for Workmen's Compensation, Davanagere dated 19.06.2012 stands restored. No costs.

……J.
(DINESH MAHESHWARI)

……J.
(ANIRUDDHA BOSE)

New Delhi;
March 29, 2022.