SUPREME COURT OF INDIA

Central Mine Planning and Design Institute Limited

Vs.

Ramu Pasi

C.A.No.979 of 2000

(Arijit Pasayat and Tarun Chatterjee JJ.)

08.12.2005

ORDER

1. These two appeals relate to a claim made by Ramu Pasi (respondent No.2) under the *Workmen's Compensation Act, 1923*(in short 'the Act'). Adjudicating the claim made by the said Ramu Pasi claiming compensation under the Act for an alleged injury suffered on 11.06.1986, the Presiding Officer, Labour Court, Dhanbad (in short 'the Labour Court') awarded compensation of Rs.4001/-. The injury, on the left ring finger, according to the claimant was suffered when he was working in the factory of the appellant. An appeal was preferred before the Patna High Court under Section 30 of the Act taking the stand that Ramu Pasi is not covered by the expression 'workman', as defined in Section 2(n) of the Act and, therefore, his claim petition before the Labour Court was not maintainable. Since, the Labour Court recorded a finding that the applicant Ramu Pasi was engaged as a casual worker, it should not have entertained the claim petition. Further, the employee was not employed for the purpose of the employer's trade and business. Learned Single Judge was of the view that the said question was really of an academic interest because the quantum awarded was very small. A Letters Patent Appeal was preferred before the Division Bench, which came to be dismissed on the ground that the same was not maintainable. In these appeals, the order of the learned Single Judge and the Division Bench are assailed.

2. Learned counsel for the appellant submitted that after having recorded a categorical finding that the claimant was a casual worker, his application for grant of compensation under the Act should not have been accepted. Ms. K. Sarada Devi, learned Amicus-Curiae, on the other hand submitted that considering the small quantum, this is not a fit case for our interference. Further the Labour Court having considered the nature of work rendered by the respondent, entertained the claim petition.

3. In order to appreciate the rival submissions, it is necessary to take note of Section 2(n) of the Act, as it stood at the relevant point of time. At that time, Section 2(n) of the Act read as follows:

> "Section 2(n) "workman" means any person (other than a person whose employment

is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is –

(i) a railway servant as defined in Section 3 of the *Indian Railways Act, 1890* (9 of 1890), not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or

(ii) employed on monthly wages not exceeding (one thousand rupees) in any such capacity as is specified in Schedule II.

Whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of (the Armed Forces of the Union) and any reference to a workman who has been injured shall, where the workman is dead includes a reference to his dependents or any of them."

4. A bare reading of the said Act shows that the expression 'workman' as defined in the Act does not cover a casual worker. There was also no definite material adduced to show that the claimant was employed for the purposes of the employer's trade or business.

5. That being so, the application before the Labour Court was clearly not maintainable. To that extent, the Labour Court and the High Court were not correct in their view. But considering the small quantum awarded, we direct that the amount, if already paid to the claimant, shall not be recovered. In the event, the money has not been paid to the claimant, the same shall be paid forthwith. It it is on deposit, it shall be permitted to be withdrawn by the claimant.

6. The appeals are, accordingly, disposed of.