

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

C.M.A.No.2065 OF 2002

BETWEEN

Yeddandi Venkataiah

... Appellant

And

M/s.Prabhudas Kishoredas Tobacco Products Ltd.,
rep.by Mr.Rajanikanth P.Patel, Aashram road,
Ahmedabad, Gujarath & 3 others.

... Respondents

Date of Judgment Pronounced: **09.06.2022**

SUBMITTED FOR APPROVAL:

THE HONOURABLE SRI JUSTICE M.LAXMAN

1. Whether Reporters of Local newspapers may (Yes/No)
be allowed to see the Judgments?
2. Whether the copies of judgment may be (Yes/No)
marked to Law Reports/Journals?
3. Whether their Lordship/ Ladyship wish to (Yes/No)
see the fair copy of the Judgment?

JUSTICE M.LAXMAN

*** THE HON'BLE SRI JUSTICE M.LAXMAN**

+ C.M.A.No.2065 OF 2002

% Dated 09.06.2022

Yeddandi Venkataiah

... Appellant

\$ M/s.Prabhudas Kishoredas Tobacco Products Ltd.,
rep.by Mr.Rajanikanth P.Patel, Aashram road,
Ahmedabad, Gujarath & 3 others.

... Respondents

! Counsel for Petitioners: Sri K.Vasudeva Reddy

^ Counsel for respondents: Sri B.G.Ravinder Reddy

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> HEAD NOTE:

? Cases referred

THE HONOURABLE SRI JUSTICE M.LAXMAN
CIVIL MISCELLANEOUS APPEAL No.2065 OF 2002

JUDGMENT:-

The present Civil Miscellaneous Appeal assails the order dated 16.08.1999 in W.C.No.82 of 1995, on the file of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Karimnagar, wherein and whereby, the claim made by the appellant herein, for compensation for death of Yeddandi Yellavva, who is the daughter of the appellant, was dismissed, in the course of employment with the opposite party, while rolling the Beedies.

2. The impugned order shows that the Commissioner has framed the preliminary issue with regard to maintainability of the claim of the appellant which is as follows:-

“Whether the workwoman employed in Beedi manufacturing process is covered under the purview of Workmen's Compensation Act or not.”

3. The Commissioner held that the occupation of the deceased do not comes under the purview of Workman as defined under Section 2(n) of Workmen's Compensation Act and

consequently, the preliminary issue was answered in favour of the opposite party and dismissed the claim petition.

4. The only substantial question of law is whether a 'Beedi Roller' is a workman within the definition of Section 2(n) of Workmen's Compensation Act so that her claim is maintainable before the Commissioner for Workmen's Compensation & Assistant Commissioner of Labour at Karimnagar.

5. The counsel for the appellant has canvassed that the definition of Workman as contended under Section 2(n) read with schedule 2 of the Workmen's Compensation Act clearly establishes that the deceased was the workwoman.

6. On the contrary, the contention of the learned counsel for the opposite party is that, the orders passed by the Commissioner require no inference since there is no manufacturing process so as to construe the deceased as a workwoman.

7. To answer the substantial question of law raised in the present appeal, it is apt to refer to Section 2(n)(ii) and Clause 2 of Schedule II of Workmen's Compensation Act as well as Section 2(k) of Factories Act and they are 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 –

(ii) Employed in any such capacity as is specified in Schedule II. Whether the contract of employment was made before or after 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, include a reference to his dependants or any of them.”

SCHEDULE-II

List of persons who, subject to the provisions of Section 2(1)(n) are included in the definition of workmen:-

The following persons are workmen within the meaning of Section 2(1)(n) and subject to the provisions of that section, that is to say, any person who is

(ii) employed, otherwise than in a clerical capacity, in any premises wherein or within the precincts where of a manufacturing process as defined in Clause (k) of Section 2 of the Factories Act, 1948 (63 of 1948) is being carried on or in any kind of work whatsoever incidental to or connected with any such manufacturing process or with the article made [whether or not employment in any such work is within such premises or precincts] and steam, water or other mechanical power or electrical power is used.

Section 2(k) of Factories Act, 1948:- “Manufacturing Process” means any process for-

- (i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal,

- (ii) pumping oil, water, sewage or any other substance; or
- (iii) generating, transforming or transmitting power; or
- (iv) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding;
- (v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or
- (vi) preserving or storing any article in cold storage.

8. A glance at the definition of Clause 2(n) of the Workmen's Compensation Act shows that any person employed in any such capacity as is specified in Schedule-II, comes under the definition of Workman. Clause 2 of Schedule-II clearly shows that any person employed otherwise than in clerical capacity in any premises or within the precincts where the manufacturing process as defined under the Clause-k of Section 2 of Factories Act is coming under the definition of workman. The definition of 2(k) also makes it clear that the process of making any article or substance with a view to usage, sale, transport, delivery or disposal is constituted as manufacturing process. The rolling of Beedies is nothing but making of any article or substance with a view to usage or sale or transport. Therefore, the activity of the deceased being the Beedi roller, clearly falls within the definition of a workwoman.

9. The learned Commissioner while adverting to the provisions contained under the Workmen's Compensation Act, clearly taken into consideration the duties of the deceased with reference to schedule II as well as the definition of "Manufacturing Process" as defined under the Factories Act, 1948.

10. For the above reasons, the order of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour at Karimnagar, requires to be set-aside. The matter requires to be remanded for adjudication of the claim on merits. This appeal is of the year 2002 and the claim is of the year 1995. Almost all, 27 years have been completed from the date of incident. This requires a time bound disposal of the case before the Commissioner for Workmen's Compensation, Karimnagar District.

11. In the result, the appeal is allowed. The impugned order is set-aside. The matter is remanded to Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Karimnagar, for disposal of claim on merits and the said exercise shall be done within a period of two months from

the date of receipt of this order. In the circumstances, there shall be no order as to costs.

12. Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.LAXMAN

Date:09.06.2022

Note :-LR Copy to be marked.
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THE HONOURABLE SRI JUSTICE M.LAXMAN

CIVIL MISCELLANEOUS APPEAL No.2065 OF 2002

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