

CASE COMMENT: NEERA BAI SAHU & ORS V. PAWAN
KALWANI & ORS.

Jaideep Jat¹⁷⁰

Abstract

This case commentary examines a compensation claim based on the purported work-related death of Bhupendra Sahu. The commentary examines the court's application of the preponderance of probability theory, drawing on well-known various court's prior judgements. It is emphasised that the informer's report plays a crucial role in determining the deceased's work status. The commentary praises the court's painstaking fact-finding process but quietly raises the possibility of any missing pieces of evidence and calls for a careful re-evaluation. It provides a comprehensive analysis of the legal underpinnings and intricate details of the evidence that influence the court's decision about the compensation claim.

Through an in-depth analysis of the case, the commentary explores the complex legal concepts, primarily referencing well-established precedents such as *Daya Kishan Joshi v. Dynemech Systems Private Limited* and *Mackinnon Maachenzie and Co. v. Ibrahim Mahmmmed Issak*. The commentary clarifies the court's use of the "arising out of and in the course of employment" paradigm, which helps to understand the complex casual linkages that exist between job tasks and accidents. The evidence's possible flaws and problems are gently questioned in the critical analysis, which suggests that a more in-depth investigation is necessary. All things considered, this commentary offers a comprehensive and perceptive analysis of the case, highlighting legal subtleties and prospective areas for more investigation.

Key words: employees, compensation, precedents, accident, employment

¹⁷⁰ The author is available at jaideepjato2@gmail.com

Introduction

This case study explores an important ruling concerning the Employees' Compensation Act of 1923 compensation claim. In this case, contradictory statements about the deceased's job and the events that preceded the deadly accident must be carefully examined. The preponderance of probability, causative linkages between accidents and employment, and burden of proof are all skilfully navigated by the court through the prudent application of significant legal precedents. In addition to providing insights into the larger legal environment surrounding compensation claims in the designated jurisdiction, the remark critically evaluates the court's methodology, highlighting its advantages and possible shortcomings.

The legal complexities of a compensation claim are thoroughly examined in this case commentary, which emphasises the careful application of precedents like *Mangla Ram v. Oriental Insurance Company Limited* and *Bimla Devi v. Himachal Road Transport Corporation*. The court's dedication to a rigorous fact-finding procedure is evident in the judgment's careful review of the material, especially the weight given to the informer's report (Ex. P-1). By highlighting the necessity of a casual connection between the accident and employment, the court's critical engagement with precedents demonstrates its respect to legal principles. Commentary, however, also draws attention to possible weaknesses in the ruling and calls for a thorough review of the evidence standards that were used. In general, the case commentary offers insightful information on the legal justification used, which helps to create a more complex knowledge of the jurisprudence surrounding compensation claims.

Facts

Injury and Accident Reports: Around nine in the morning on June 15, 2008, Bhupendra Sahu and Kesar Bai went to the first floor of a building that was still under construction in Om Shanti Sarowar Saddu, Raipur, to retrieve wood that was close to the lift area. Both of them fell along with the floor's artificial ceiling while trying to carry the wood. Following their severe injuries, Bhupendra Sahu and Kesar Bai were brought right away to Mekahara Hospital.

Application for Claim: The appellants/claimants filed an application under Section 10 of the Employees' Compensation Act (E.C. Act), claiming to be Bhupendra Sahu's widow and children. They stated that Bhupendra Sahu, a Mason, was paid Rs. 3,750 a month plus an allowance of Rs. 1,500, for a total monthly salary of Rs. 5,250. The claimants requested Rs. 4,15,960 in compensation.

Reaction of Respondents: The first two non-applicants, who were first implicated, filed a reply refuting the allegations. They claimed that Bhupendra Sahu was a chronic drinker, had abandoned appellant/claimant No. 1, and frequently got into arguments with the contractor and his other workers. It was contended that Manohar Sahu (non-applicant No. 4) was assigned the task of building the lift area based on measurements, and that the contractor

was in charge of providing workers and guaranteeing security. Respondent No. 1 and 2 said that Bhupendra Sahu had come to see Kesar Bai and was not working at the workplace.

Parties Implied: The response provided by respondent No. 1 and 2 was accepted by respondent No. 3 and 4, who later impleaded.

The Commissioner's Decision: Eleven problems were presented by the knowledgeable Commissioner for discussion. The Commissioner came to the conclusion that Bhupendra Sahu was not hired by the respondent and that his death was not the consequence of an accident that happened while he was working, after considering the pleadings and the evidence. The compensation claim was turned down.

Issues

- Whether Bhupendra Sahu worked for the respondent at the time of the accident or not is the main point of contention.
- The issue of whether Bhupendra Sahu's injuries were caused by an accident at work, taking into account elements including inadequate illumination and safety precautions at the building site.
- If the Commissioner properly took into account the pleadings and evidence put out by each side, with particular attention to the appellants' assertion of oversight.

Appellants' arguments

Relationship of Employment: The appellants argued that particular pleas and evidence proving Bhupendra Sahu's employment with the respondent were ignored by the Commissioner. The fact that respondent No. 2's premises were where the accident happened was emphasised, implying a link to the employment.

Acceptance by Those Who Did Not Apply: In their response to the claim application, respondent No. 1 and 2 made an acknowledgment that the appellants emphasised. According to these non-applicants, Bhupendra Sahu worked for non-applicant No. 4, Manohar Sahu, a contractor hired by non-applicant No. 1. mistakes in the commissioner's conclusions It was said that the Commissioner failed to notice the admission and incorrectly concluded that Bhupendra Sahu did not work for the non-applicants. The appellants contended that the Commissioner disregarded Pawan Kalwani's (NAW-1) admission, which they believed would have strengthened their case.

Casual Relationship: The appellants argued that the information in the record contradicted the Commissioner's conclusion that Bhupendra Sahu did not sustain any employment damage resulting from or occurring during his employment. They argued that since the accident happened on respondent property, it should be seen as having happened both during and as a result of employment.

Respondents' Denial of Employment: The appellants contested the respondents' refusal to hire Bhupendra Sahu. They contended that Bhupendra Sahu's employment with Manohar Sahu (non-applicant No. 4) should be established after it was acknowledged by respondent No. 1 and 2.

Unusual Results: The appellants argued that the Commissioner's conclusions were biased and unsupported by the available data. They said that the Commissioner reached a decision that was at odds with the facts and neglected to take into account important case factors, such as the admission of employment.

Compensation Claim: The appellants asked the court to grant their appeal and to have the Commissioner's judgement overturned. They implored the court to grant the appellants/claimants a reasonable sum of compensation, taking into account the circumstances surrounding Bhupendra Sahu's job and the injuries he suffered in the accident.

Position Overall: In addition to challenging the Commissioner's conclusions as incorrect and at odds with the information offered throughout the proceedings, the appellants sought to create a compelling case for Bhupendra Sahu's employment and the casual relationship between the accident and employment.

Respondents' arguments

Refusal of Employment: The denial of Bhupendra Sahu's employment with respondent No. 1 and 2 is the main point of dispute for the respondents. They contend that on the day of the accident, the deceased was not working.

Weekly Off: It is highlighted that the accident happened on June 15, 2008, a Sunday that is observed as a weekly holiday. The responses imply that no work was scheduled for that day and utilise this information to cast doubt on the validity of the claim application.

Working for Manohar Sahu: The respondents contend that Manohar Sahu (non-applicant No. 4), a contractor hired through non-applicant No. 1, was Bhupendra Sahu's employer. They assert that they are not responsible for the accident because of this employment structure.

Illicit Connection and the Deceased's Behaviour: Respondents contend that Bhupendra Sahu abandoned Kesar Bai, drank excessively, and had an extramarital affair with her. They contend that his actions would disqualify him from working at the facility.

Modification of Pleadings: Respondents draw attention to the appellants' subsequent addition of respondent No. 3 and 4 to the pleadings. They contend that this shows the first claim against respondent No. 1 and 2 lacked specificity and clarity.

Inconsistencies in the Claim Application: The responders draw attention to inconsistencies in the claim application, such as the mismatch between the application's stated place of employment and the location of the accident.

Continuity with Legal Precedents: Legal precedents like *Dilaram v. Managing and Laxman Rao v. Maharashtra* are cited to bolster the contention that plaintiffs need to prove employment as well as the casual relationship between the injury and work.

Not Questioning Your Coworkers: The respondents contend that in order to bolster their claim, the appellants were unable to provide testimony from other coworkers, which diminishes the appellants' position.

Fourth Implementation of Non-Applicant: Respondent No. 4 contends that there were no particular pleas made against non-applicant No. 4 and that their implication was haphazard. This is cited as a flaw in the appellants' argument.

To summarise, the respondents dispute the appellants' claims by highlighting the circumstances surrounding the accident, disputing Bhupendra Sahu's employment with respondent No. 1 and 2, and putting forth a number of counterarguments, such as those pertaining to legal precedent, pleading modifications, and credibility issues.

Ratio decidendi

Employee's Compensation Act Employer's Liability: Section 3 of the Employee's Compensation Act, 1923¹⁷¹ poses a crucial legal challenge about the employer's obligation for compensation.

Proof Requirement for Claimants: The ruling places emphasis on the claimants' responsibility to demonstrate that the deceased was an employee and that the accident happened while he was working.

Assessment of the Evidence - Example P-1: The merger intimation report, Ex. P-1, which indicated that the deceased was employed as a mason at the building site, was given a lot of weight by the court.

Witness Credibility and Inconsistencies: The court emphasised discrepancies in the respondents' version of events and took into account the reliability of witnesses, particularly the informant connected to one of the respondents.

The "Preponderance of Probability" Standard's application: The court referenced case law to bolster its position that the preponderance of the evidence standard—rather than proof beyond a reasonable doubt—is necessary in circumstances like these.

Relationship of Casualty between Accident and Employment: Based on the nature of the activity (building a lift area) and the events leading up to the accident as detailed in Ex. P-1, the court deduced a casual relationship between the employment and the accident.

¹⁷¹The Employee's Compensation Act, 1923, s.3

Rejecting the Defences of the Respondents: The denial of the deceased's job and the allegation of an illegal connection causing the accident were rejected by the court from the respondents' defences.

Reminder for Calculating Compensation: The court suggested that the first conclusions were unsustainable and remanded the case for the purpose of calculating compensation, while also setting aside the Commissioner's ruling.

Quick Decision: Taking into account the case's age, the court ordered the Commissioner to make a decision on the compensation case as soon as possible.

In conclusion, the inferred ratio decidendi centres on the evaluation of the evidence, emphasising Ex. P-1, and the application of the preponderance of likelihood test to determine whether the deceased's damage resulted from and occurred during the course of work. A key component of the ruling is the remand for compensation computation and the rejection of the respondents' defences.

Key precedents

- *Mangla Ram v. Oriental Insurance Company Limited & Ors.*¹⁷²: The court relies on this case to emphasize the application of the principle of preponderance of probabilities in deciding compensation claims. It highlights that evidence should be examined on the touchstone of preponderance of probability rather than the standard of proof beyond reasonable doubt.
- *Dulcina Fernandes v. Joaquim Xavier Cruz*¹⁷³: The court refers to this case to argue that the evidence of the claimants should be examined on the touchstone of preponderance of probability, and the standard of proof beyond reasonable doubt should not be applied.
- *Bimla Devi and Others v. Himachal Road Transport Corporation and others*¹⁷⁴: The court cites this case to emphasize that in road accident claims, strict principles of proof in a criminal case are not applicable. The claimants are required to establish their case on the touchstone of preponderance of probability.
- *Mackinnon Maachenzie and Co. (P.) Ltd. v. Ibrahim Mahmmmed Issak*¹⁷⁵: The court refers to this case to define the terms "arising out of employment" and "in the course of employment" under Section 3 of the Employee's Compensation Act, 1923.

¹⁷² MANU/SC/0332/2018: 2018 SCC 5 656

¹⁷³ MANU/SC/1028/2013: 2013 SCC 10 646

¹⁷⁴ MANU/SC/0577/2009: 2009 SCC 13 530

¹⁷⁵ MANU/SC/0310/1969: 1969 SCC 2 607

- Daya Kishan Joshi and Another v. Dynemech Systems Private Limited¹⁷⁶: The court cites this case to discuss the phrases "arising out of and in the course of employment." It emphasizes that there must be a casual relationship between the accident and the employment for a compensation claim to succeed.

These precedents are used to establish legal principles and interpret the relevant provisions of the law in the context of the specific case presented in the judgment.

Critical analysis

The verdict deftly handles the complexities of compensation legislation, exhibiting excellent clarity in legal interpretation and application of significant cases. In situations involving traffic accidents, the court achieves a compromise between the application of the law and the real difficulties that plaintiffs must overcome by highlighting the preponderance of the evidence. The judgment's profundity is enhanced by the contextual application of precedents, which offers complex insights into the particular legal precepts guiding compensation claims. Potential disadvantages, however, include an excessive dependence on precedents and a perceived lack of flexibility in some evidential determinations, which may hinder adaptation to particular circumstances. The long-term effect and justice of the ruling might be improved by taking a more flexible stance and giving socioeconomic considerations more weight.

¹⁷⁶ MANU/SC/1000/2017: 2018 I CLR 8 (S.C.): 2018 SCC 11 642