

KERALA STATE ELECTRICITY BOARD AND ANR.

v.

VALSALA K. AND ANR. ETC. ETC.

SEPTEMBER 16, 1999

[DR. A.S. ANAND, C.J., S. RAJENDRA BABU AND
R.C. LAHOTI, JJ.]

Labour Law :

Workmen's Compensation Act, 1923:

Ss.4 and 4A—Amendment to by Act 30 of 1995—Enhancing amount of compensation and rate of interest w.e.f. 15.9.1995—Applicability of Amendment to cases arising out of accidents caused prior to 15.9.1995—Held, relevant date for determination of rate of compensation is the date of accident and not the date of adjudication of claim—However, in the instant matters, keeping in view the particular facts and circumstances of the cases, pectiness of the amounts involved and the time that has since lapsed, the impugned order passed on the basis of the 1995 amendment are not interfered with.

Pratap Narain Singh Deo v. Srinivas Sabata and another, [1976]1 SCC 289, relied on.

United India Insurance Co. Ltd. v. Alavi, (1998) 1 KLT 951, approved.

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No. 21613 of 1997 Etc.

From the Judgment and Order dated 9.9.97 of the Kerala High Court in M.F.A No. 570 of 1997.

P. Krishnamoorthy, T.G.N. Nair, Romy Chacko, Ms. V. Mohana, Ramesh Babu M.R., Ms. Malini Poduval, Ms. K. Sarada Devi, B.V. Deepak, K.M.K. Nair, S.K. Paul, Salil Paul and Ms. Indira Sawhney for the appearing parties.

The following Order of the Court was delivered :

The neat question involved in these special leave petitions is whether, the amendment of Sections 4 and 4A of the Workmen's Compensation Act,

A 1923, made by Act No. 30 of 1995 with effect from 15.9.1995, enhancing the amount of compensation and rate of interest, would be attracted to cases where the claims in respect of death or permanent disablement resulting from an accident caused during the course of employment, took place prior to 15.9.1995?

B Various High Courts in the country, while dealing with the claim for compensation under the Workmen's Compensation Act have uniformly taken the view that the relevant date for determining the rights and liabilities of the parties is the date of the accident.

C A four judge Bench of this Court in *Pratap Narain Singh Deo v. Srinivasa Sabata and Anr.*, [1976] 1 SCC 289 speaking through Shinghal, J. has held that an employer becomes liable to pay compensation as soon as the personal injury is caused to the workmen by the accident which arose out of and in the course of employment. Thus, the relevant date for determination of the rate of compensation, is the date of the accident and not the date of adjudication of the claim.

D A two judge Bench of this Court in *The New India Assurance Company Limited v. V.K. Neelakandan and Ors. etc. etc.*—Civil Appeal Nos. 16904-16906 of 1996, decided on 6.11.1996, however, took the view that Workmen's Compensation Act, being a special legislation for the benefit of the Workmen, the benefit as available on the date of adjudication should be extended to the workmen and not the compensation which was payable on the date of the accident. Two judge Bench in *Neelakandan's* case (supra), however, did not take notice of the judgment of the larger Bench in *Pratap Narain Singh Deo's* case, as it presumably was not brought to the notice of their Lordships. Be that as it may, in view of the categorical law laid down by the larger Bench in *Pratap Narain Singh Deo's* case the view expressed by the two judge Bench in *Neelakandan's* case is not correct.

F Our attention has also been drawn to a judgment of the Full Bench of the Kerala High Court in *United India Insurance Co. Ltd. v. Alavi*, (1998) 1 KLT 951 (FB) wherein the Full Bench precisely considered the same question and examined both the above noted judgments. It took the view that the injured workmen becomes entitled to get compensation the moment he suffers personal injuries of the types contemplated by the provisions of the Workmen's Compensation Act and it is the amount of compensation payable *on the date of the accident and not the amount of compensation payable on account of the amendment made in 1995*, which is relevant. The decision of the Full

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Bench of the Kerala High Court, to the extent it is in accord with the judgment of the larger bench of this Court in *Pratap Singh Narain Singh Deo v. Srinivas Sabata and Anr. (supra)* lays down the correct law and we approve it. A

Having answered the question posed in the earlier part of the judgment in the negative, we shall take up this batch of special leave petitions for consideration. B

In so far as these special leave petitions are concerned, we find that the accident took place long time back. Compensation became payable to the workmen, as it is not disputed that the accidents occurred during the course of employment, as per the law prior to the amendment made in 1995. Keeping in view the peculiar facts and circumstances of these cases, pettiness of the amounts involved in each of the cases and the time that has since elapsed, we are not inclined to interfere with the impugned orders, decided on the basis of the 1995 amendment, in exercise of our jurisdiction under Article 136 of the Constitution of India and, therefore, dismiss the special leave petitions, but, after clarifying the law, as noticed above. C D

CIVIL APPEAL NO. 5962/1997

This appeal by special leave calls in question the judgment of the High Court of Kerala, dated 22.10. 1996. We have heard learned counsel for the parties. The view taken by the High Court is unexceptionable and is in accord with the judgment of this Court in *Pratap Narain Singh Deo v. Srinivas Sabata and Anr.*, [1976] 1 SCC 289 as also the Full Bench judgment of the Kerala High Court in *United India Insurance Co. Ltd. v. Alavi*, (1998) 1 KLT 951 (FB). There is no merit in this appeal. It is dismissed. No costs. E

R.P.

Petitions Appeal dismissed. F