

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Misc. Appeal No. 576/2011

1. Rawta S/o Shri Ashaji Meghwal, aged about 47 years
resedent of Village-Noon, Tehsil & District Sirohi.
2. Smt. Chunni W/o Sh. Rawta Ji Meghwal, aged about 42
years resident of Village-Noon, Tehsil & District Sirohi.

----Appellants

Versus

1. Makna Ram S/o Choga Ji Meghwal resident of Village-Noon,
Tehsil & District Sirohi.
2. Shankar S/o Ukaji Ghnchi resident of Village-Noon, Tehsil &
District Sirohi.
3. Gajaji S/o Ukaji Ghanchi resident of Village-Noon, Tehsil &
District Sirohi.
4. Sawaji S/o Gharmaji Ghanchi resident of Village-Noon,
Tehsil & District Sirohi.
5. Executive Engineer, Public Works Department, Sirohi
6. Natwar Lal Rupaji Prajapat resident of Village-Noon, Tehsil
& District Sirohi.

----Respondents

For Appellant(s)	:	Ms. Vaishnav Nikita Mr. Jitendra M. Choudhary
For Respondent(s)	:	Mr. Tushar Jain for Mr. Aishwarya Anand

HON'BLE MR. JUSTICE SANDEEP SHAH

Judgment

- | | |
|---|----------------------|
| 1. Date of conclusion of arguments | 04.02.2026 |
| 2. Date on which judgment was reserved | 04.02.2026 |
| 3. Whether the full judgment or only the
operative part is pronounced: | Full Judgment |
| 4. Date of pronouncement | 12.02.2026 |

1. The present appeal under Section 30 of the Workmen's
Compensation Act, 1923 (hereinafter to be referred as 'the Act of

1923') (as it then was) has been filed challenging the judgment and award dated 21.07.2006 passed by the learned Commissioner, Workmen Compensation Act, 1923, Sirohi in Claim No. W.C./F/11/99, vide which, the claim petition filed by the appellants, i.e., father and mother of the deceased Nanu, was dismissed mainly on the ground that the parents do not fall within the definition of dependents under Section 2(1)(d) of the Act of 1923.

Factual Matrix

2. Brief facts of the case are that a claim petition under Section 22 of the Act of 1923 was filed by the appellants initially against respondent Nos. 1 & 4; however, subsequently respondent Nos. 5 & 6 were impleaded on an application under Order 1 Rule 10 of the C.P.C. By way of the claim petition, it was stated that deceased Nanu, i.e., the daughter of the appellants, was working as a labourer under the employment of respondent Nos. 2 to 4 and was at the relevant time undertaking the work of transferring the concrete and respondent No. 1 was driving the tractor in which she was engaged for the purpose of undertaking her employment. The respondent No. 1 drove the tractor rashly and negligently, causing her to fall down, and the tractor ran over her, resulting in her immediate death. It was stated that for the incident in question, an FIR was lodged for the offences punishable under Sections 279 & 304-A IPC. The claimants further stated that the deceased was 17 years of age and was earning Rs. 1,800/- per month. The claimants further stated that they were dependent upon the deceased and, therefore, by way of filing claim petition,

an amount of Rs.2,50,000/- as compensation with 18% interest and 50% penalty was claimed.

3. Post impleadment of the respondent Nos.5 & 6, the amended claim was filed while asserting that the respondent Nos. 2 to 4 were undertaking the work for the principal employer i.e. respondent Nos.5 & 6, for the construction of the road from Fugni to Tawri. It was asserted that the contract for construction was given by the respondent No.5 i.e. PWD Department to the respondent No.6 i.e. Natwar Lal, the Contractor, who had further given the sub-contract to respondent Nos.2 to 4.

4. The respondents filed their replies. As far as respondent Nos. 2 to 4 are concerned, they filed the reply while denying the deceased being in their employment, however, they admitted the fact that the death of the deceased was caused during the work being undertaken, but was due to the negligence and fault of the deceased herself. It was, however, asserted that the deceased was married and the appellants were not dependent upon the deceased. It was further asserted that Gena Ram i.e. husband of the deceased had entered into a settlement with the respondents and, therefore, the claim petition was not maintainable. The respondent No.5 filed a separate reply while asserting that the deceased was not under the employment of the respondent-PWD Department, but was under the employment of respondent Nos.2 to 4 only. It was further asserted that in the month of June 1999, under the Famine Relief Project, the road was being constructed from Fugni till Hanumanji Ka Marg, for which, the contract was given to respondent No.6 i.e. Natwar Lal, who was responsible for bringing the labourers and the workers and the department had

got no role to play. It was thus asserted that there was no proximity of the deceased with the department and no employer-employee relationship existed.

5. After filing of the reply, the learned Commissioner framed five issues on 05.10.1999 and two additional issues on 27.07.2001. Thereafter, the claimant Rawtaram got himself examined as PW-1 and on behalf of respondent Nos.1 to 4, Gena Ram, Shankar Lal, Pepa Ram, Savia and Mancha Ram were examined. Chandra Shekhar and Swaroop Raj were examined on behalf of respondent No.5 and Natwar Lal on behalf of respondent No.6. Various documents were also exhibited.

6. The learned Commissioner thereafter proceeded to pass the judgment dated 21.07.2006 whereby without deciding the issues framed vide orders dated 05.10.1999 & 27.07.2001 whatsoever, the Commissioner dismissed the claim of the appellants while observing that the deceased was married and the father and mother of the deceased i.e. the appellants did not fall within the definition of dependent under Section 2(1)(d) of the Act of 1923. The learned Commissioner relied upon the decision of the Single Bench of Madhya Pradesh High Court in the case of **Ramsingh & Anr. vs. Shivaji Rao & Anr.** reported in 2006 ACJ 968. Learned Commissioner further held that since the husband of the deceased has stated during the course of his examination that he does not wish to take any compensation, no case for grant of any compensation was made out and there was no requirement of deciding of any such issues in the case in hand. Being aggrieved by the above-mentioned judgment, the present appeal has been filed.

Arguments on behalf of learned counsel for the appellants:

7. Learned counsel for the appellants, Ms. Vaishnav Nikita, while laying a challenge to the judgment impugned, submitted that it was a bounden duty of the learned Commissioner, who had framed the issues, to decide the same thereafter. She, while referring to the ordersheet of the Commissioner dated 05.10.1999, submitted that issue no.3 was specifically framed by the learned Commissioner to the extent that as to whether the appellants were dependent upon the deceased and were entitled for claiming the compensation or not. However, no adjudication was done in spite of framing of seven issues by the learned Commissioner. She asserted that when the entire evidence was collected and various documents were exhibited, there was no occasion available for the Commissioner to have decided the case in a cursory manner, as has been done in the case in hand.

8. Learned counsel further, while relying upon the definition of dependent under Section 2(1)(d) of the Act of 1923, submitted that the learned Commissioner has proceeded to decide the matter while being oblivious to Clause (iii) b of Section 2(1)(d) of the Act of 1923 wherein as far as dependent is concerned, even the parents, other than a widowed mother, have been treated as dependent. She further submitted that a bare perusal of the definition of dependent itself will reveal that even parental grandparents and widowed daughter-in-law have been included within the definition of dependent, the only embargo was to show that they are wholly or partly dependent on the earnings of the workman at the time of his death. She further asserted that it was the bounden duty of the learned Commissioner concerned to give

his adjudication upon the issues, while considering the entire evidence, to find out as to whether the appellants were able to make out a case of being wholly or partly dependent upon the earnings of the deceased, which in the present case, has not at all been done by the learned Commissioner concerned. She further submitted that the reliance placed upon the judgment passed by the Madhya Pradesh High Court was per se illegal as that case pertained to a claim under the Motor Accident Claims where the definition of dependent is totally different and the adjudication was done while relying upon the definition of legal representative as provided under Section 2(11) of Code of Civil Procedure and not while dealing with the definition of dependent under the Act of 1923.

9. Learned counsel further submitted that in the claim itself, the appellants had stated that they were dependent upon the income of the deceased. Furthermore, during the course of evidence, the father of the deceased i.e. the appellant No.1 had appeared in the witness-box and in so many words, had clarified his dependency upon the deceased and had asserted that the deceased was never married. She asserted that on various occasions, questions were asked to him and he had remained firm on his stand with regard to the fact of deceased never being married to Gena Ram. It was asserted that the respondents had just, with a view to make out their defence, tried to show the deceased married to Gena Ram, which further will be clear from the fact that Gena Ram appeared as a witness and submitted that he does not want to claim any compensation as he has received Rs.11,000/- as settlement from the respondents. She asserted that this fact itself was sufficient to

show collusion on the part of the respondents with Gena Ram. She further asserted that no documents were placed on record to show the deceased being married to Gena Ram or to show her staying with Gena Ram. On the contrary, the appellants had placed on record the Ration Card, Identity Card issued by the Election Commission of India, the Death Certificate, the FIR, the memo of handing over the dead body during the criminal proceedings and other documents, wherein everywhere the deceased was shown as daughter of the appellant No.1 and nowhere she was shown as wife of Gena Ram. She thus asserted that the judgment passed by the learned Commissioner is perverse and the same has been passed while being oblivious of consideration of the relevant documents as well as the evidence available on record.

10. Learned counsel further relied upon the judgment passed by the Delhi High Court in the case of **"A & A Accessories vs. Commissioner, Workmen's Compensation"** reported in *2010 SCC Online Del 3640* to emphasize that even parents can be treated as dependents under Section 2(1)(d) of the Act of 1923 if it can be shown that they were wholly or partly dependent upon the deceased. She also relied upon the judgment passed by the High Court of Madras at Madurai in the case of **"Thilagavathi vs. Deputy Commissioner & Ors."** reported in *2016 SCC Online Mad 32380* and a recent judgment of High Court of Bombay in the case of **"Saraswati Sudam Manwar & Anr. vs. United India Insurance Co. Ltd."** reported in *2024 SCC Online Bom 4974*, emphasizing that in case dependency is proved, even the parents of the deceased shall be treated as dependent under the Act of 1923.

Arguments on behalf of learned counsel for the respondents:

11. *Per contra*, learned counsel appearing for the respondents, more particularly, respondent-Department emphasized that the respondent has got no role as far as grant of compensation is concerned and there was no employer-employee relationship between the deceased and the respondent-Department. It was further emphasized that the learned Commissioner had rightly passed the judgment impugned while considering the definition of dependent and while relying upon the judgment passed by the Madhya Pradesh High Court. The counsel, however, was not in a position to dispute the fact that inspite of taking the entire evidence and framing of issues, the learned Commissioner has not given issue wise adjudication and has simply decided the case only while relying upon the judgment passed by the Madhya Pradesh High Court (*supra*).

Analysis:

12. Heard learned counsel for both the sides and peruse the material available on record.

13. The first and foremost question for consideration before this Court is as to whether the parents would be included within the definition of dependent under the Act of 1923. For the above-mentioned purpose, it will be relevant to quote the definition of 'dependent' under Section 2(1)(d) of the Workmen's Compensation Act, 1923, which reads as under:

2. Definitions.- (1) In this Act, unless there is anything repugnant in the subject or context,-

(d) "dependant" means any of the following relatives of a deceased workman, namely,-

- (i) a widow, a minor ^b[legitimate or adopted] son, and unmarried ^b[legitimate or adopted] daughter, or a widowed mother; and
- (ii) if wholly dependent on the earnings of the workman at the time of his death, a son or a daughter who has attained the age of 18 years and who is infirm;
- (iii) if wholly or in part dependent on the earnings of the workman at the time of his death,
- (a) a widower,
- (b) a parent other than a widowed mother,
- (c) a minor illegitimate son, an unmarried illegitimate daughter or a daughter ^c[legitimate or illegitimate or adopted] if married and a minor or if widowed and a minor,
- (d) a minor brother or an unmarried sister or a widowed sister if a minor,
- (e) a widowed daughter-in-law,
- (f) a minor child of a pre-deceased son,
- (g) a minor child of a pre-deceased daughter where no parent of the child is alive, or
- (h) a paternal grandparent if no parent of the workman is alive;]
- ^d[Explanation.-For the purpose of sub-clause (ii) and items (f) and (g) of sub-clause (iii), references to a son, daughter or child include an adopted son, daughter or child include an adopted son, daughter or child respectively;

14. Needless to emphasise that the legislation in question is a beneficial legislation which has been enacted with the pious object of providing of payment of compensation to certain classes of employees in case of injury or death by any accident. The legislation is undoubtedly a beneficial piece of legislation and thus in case of any ambiguity, the interpretation, which subserves the purpose of enactment, has to be made while considering the provisions of the Act in question. However, in the present case, a bare perusal of the definition of dependent, more particularly Clause (iii)(b) of Section 2(1)(d) of the Act of 1923 will leave no iota of doubt that in case it is shown that the parent (other than a

widowed mother) is wholly or partly dependent on the earnings of the workmen at the time of his/her death, then, parents are definitely to be included within the definition of dependent. Furthermore, a bare perusal of the judgment passed by the Delhi High Court in the case of **"A & A Accessories vs. Commissioner, Workmen's Compensation (supra)"** and Madras High Court in the case of **"Thilagavathi vs. Deputy Commissioner & Ors. (supra)"** as well as the High Court of Bombay in the case of **"Saraswati Sudam Manwar & Anr. vs. United India Insurance Co. Ltd. (supra)"** leave no iota of doubt that in case the parents can show that they were wholly or partly dependent upon the deceased, then they are to be treated as dependent for the purpose of grant of compensation along with other benefits under the Act of 1923.

15. As far as, the judgment relied upon by the learned Commissioner is concerned, the same did not deal with the provisions of the Act in question and pertained to the provisions of Motor Vehicles Act, 1988 and further the definition of 'legal representative' was under consideration as provided under Section 2(11) of the C.P.C. The definition of 'legal representative' is altogether different from the definition of dependent as provided under the Act of 1923. The reliance placed upon the judgment passed by the Madhya Pradesh High Court, by the Commissioner Workmen Compensation, is totally unjustified and the same has been done without considering the provision applicable to the present case.

16. Furthermore, it will be relevant to mention here that after considering the pleadings of the parties, the learned

Commissioner had framed five issues for adjudication vide order-sheet dated 05.10.1999. The issues framed are as under:-

"फरीकेन उप निम्न तनकियात कायम की गई:-

- 1. आया मृतक नेनु पुत्री रावता मेघवाल अप्रार्थी संख्या 2 से 4 के नियोजन में रहने नियोजन के दौरान ट्रेक्टर संख्या आर. जे. 24/आर 1629 को दुर्घटना में मृत्यु हुई।*
- 2. आया नेनु की दुर्घटना स्वयं की लापरवाही से होने के कारण अप्रार्थी जिम्मेदार नहीं है?*
- 3. आया प्रार्थीगण मृतक आश्रित नहीं होने के कारण मुआवजे के हकदार नहीं है?*
- 4. आया प्रार्थीगण वाद में अंकित रकम पाने के अधिकारी हैं?*
- 5. अनुतोष"*

17. Thereafter, post filing of reply by newly added respondents, by way of order-sheet dated 27.07.2001, two more issues were framed which are as under:-

"6. आया कि मृतक विवाहित होकर अन्यत्र निवास करती थी अतः प्रार्थीगण क्या आश्रितों में आते हैं

7. आया कि मृतका का नियोजन किसके अधीन था।"

18. As stated supra, various witnesses were examined and various documents were exhibited on behalf of both the sides in support of the issues so framed. It is thus clear that bounden duty of the learned Commissioner was to consider the entire evidence available on record and, thereafter, give issue wise findings, more particularly in case where the issues were framed and the entire evidence was led thereafter. The learned Commissioner in the present case has not only failed to give any issue wise finding and has rather without dealing with any evidence, has given a finding of deceased being married to Gena Ram and further while relying upon the judgment passed by the Madhya Pradesh High Court, treated the appellants to be not falling within the definition of dependents. The above-mentioned procedure adopted by the learned Commissioner is alien to the procedure for adjudication provided under the Act of 1923 or even in adjudication of cases

which are treated as summary proceedings. It was the bounden duty of the learned Commissioner to consider the evidence of both the sides and thereafter to deal with evidence as well as the documents exhibited and thereafter give his findings upon the issues so framed, more particularly, as to whether the appellants were in a position to show that they were partly or wholly dependent upon the income of the deceased and as to whether the deceased was married to Gena Ram. The learned Commissioner simply based upon the statement of Gena Ram, has come to conclusion that the deceased was married to Gena Ram, whereas, there are contrary evidence available on record, inasmuch as, the documents i.e. Ration Card, Identity Card issued by the Election Commission of India, Death Certificate, the FIR, the documents of the investigation etc., which clearly point out that in every document in the name of deceased, there was no reference to her being married to Gena Ram. Rather, in all the documents, she has been shown to be daughter of the appellant No.1.

19. On the contrary, the document relied upon by respondent Gena Ram, was only with regard to a correspondence issued from the Office of Collector, Sirohi dated 12.03.2001, while showing that since the claim filed by Gena Ram was one and half year old, no compensation under the Chief Minister Relief Fund can be granted. In the above-mentioned document, while deciding the claim, the name of wife of the applicant was shown as deceased, however, in the above-mentioned proceedings, there is no adjudication as to whether deceased was wife of Gena Ram by the Collector concerned also. Thus, placing sole reliance upon the

document by itself was totally unjustified. Furthermore, simplicitor Gena Ram stating that he was married to deceased would not make out a case of admission on the part of the claimants as the claimants since inception, have come out with a specific case that deceased was just 15 years old and was never married to Gena Ram.

20. In the present appeal, a substantial question of law is involved, inasmuch as, without considering the evidence available on record and without dealing with the evidence, the adjudication has been done. Thus, the judgment in question falls within the four corners of being a perverse judgment as also the same has been passed while relying upon a precedent, which is not at all applicable to the case in hand.

21. It is thus clear that the learned Commissioner was required to analyse the entire evidence available on record including the statements of witnesses as well as the documents exhibited for deciding all the issues, more particularly, the issue of dependency of the appellants upon the deceased and the deceased being married to Gena Ram. The judgment impugned is rather totally unreasoned and shows total non-application of mind on the part of the learned Commissioner while deciding the issues. The same thus cannot be sustained in law. Since the impugned judgment is of 2006, normally this Court would have finally adjudicated the matter here itself, however, since in the present case, though evidence has been taken and there is no consideration of the same, in case any adjudication is done at this stage while considering the merits of the entire evidence, the parties concerned would definitely lose a right to appeal.

Conclusion:

22. Thus, in the facts and circumstances of the present case, the judgment impugned dated 21.07.2006, passed by the learned Commissioner Workmen Compensation Act, 1923, Sirohi in Claim No. W.C./F/11/99 "**Rawta & Anr. v. Makna Ram & Ors.**" is quashed and set aside. The matter is remanded back for adjudication before the learned Commissioner Workmen Compensation Act, 1923, Sirohi, who shall adjudicate the same after deciding all the issues and after considering the entire evidence, within a period of 6 months from receipt of present judgment and the record of the case in hand. The adjudication shall be done after issuing notices to both the sides.

23. The present appeal is disposed of accordingly.

24. All pending applications also stand disposed of.

25. Record of the case be sent back immediately.

(SANDEEP SHAH),J