Supreme Court of India
Maghar Singh vs Jashwant Singh on 24 September, 1996
Equivalent citations: 1997 ACJ 517, (1997) 115 PLR 710, (1998) 9 SCC 134
Bench: A Ahmadi, K Paripoornan, S V Manohar
ORDER

1. Special leave granted.

2. Heard the learned counsel for the parties.

3. The appeal is directed against the decision of the learned Senior Sub-Judge, Sangrur, whose decision came to be affirmed by the learned Single Judge in the High Court and the Division Bench did not see any valid reason to entertain the letters patent appeal. The facts giving rise to this appeal, briefly stated, are as under:

The appellant claims that he was the workman on the farms of the respondent. On 26-7-1984 while he was working he sustained personal injury which resulted in the loss of both his hands just above the wrists resulting in permanent disability with 100 per cent functional loss. He alleged that he was earning a salary of Rs. 360 per month besides meal, etc. The respondent contested the claim by contending that the appellant was not his employee; that he had not sustained the injury while operating the machine on his farm and that he had not suffered injury in the course of employment. The learned Senior Sub-Judge, Sangrur, who was the authority under the Workmen's Compensation Act, 1923, (hereinafter called "the Act") raised four issues and on finding that the appellant had failed to prove that he was in the employment of the respondent at the relevant point of time and had sustained the injuries in the course of employment, dismissed his claim. Aggrieved by this decision rendered by the learned Senior Sub-Judge, the appellant preferred a first appeal from Order No. 110 of 1988 which was heard by a learned Single Judge. In the course of evidence it had transpired that after the injury the respondent had taken the appellant to the hospital and had signed the behead ticket. It was further contended that the machine which he was operating at the relevant point of time was indisputably that of the respondent. It is indeed true that he did not possess any letter of appointment nor did he possess any documentary evidence to show that a certain payment was being made to him for the work taken from him. However, his contention was that the employer did not give any letter of appointment nor did he give or take anything in writing in regard to the payment of salary presumably because this was seasonal work. The learned Single Judge, however, did not dwell on the contention that it was the respondent who had taken him to the hospital, got him admitted and it was his machine which he was operating at the relevant point of time. We are afraid that the evidence did not receive proper scrutiny by both the learne Sub-Judge as well as the learned Single Judge in the High Court and since the letters patent appeal was dismissed summarily, even the Division Bench did not scrutinize the evidence.

4. We have carefully examined the evidence in this connection and we are satisfied beyond any manner of doubt that at the relevant point of time when the accident occurred in which the appellant lost both his hands above the wrists he was operating the "toka" machine belonging to the respondent. That is not a matter in controversy. There is also the evidence showing the respondent

having taken the appellant to the hospital after he sustained the injuries which is a factor which could not have been overlooked. There is also no reason to believe that the appellant would wrongly point a finger at the respondent as his employer. When seasonal work of this type is taken on farms it is not unusual for the employer not to issue a letter of appointment or make entries in the register regarding payment of salary to avoid certain legal consequences. We have, therefore, no difficulty in concluding that the appellant's contention that he was employed by the respondent and that he suffered the injury in question while operating the "toka" machine of the respondent in the course of employment need not be doubted.

5. In the claim application he has stated that he was receiving a sum of Rs. 360 by way of monthly wages. It was said that on the behead ticket it was mentioned that he was a labourer with an income of Rs. 300 per month. His age also at the relevant point of time is not accurately stated but he was aged about 42 years according to him. But according to the behead ticket he was aged about 45 years. Taking this evidence into consideration even if we proceed on the premise that his monthly income was Rs. 300 he would be entitled to compensation under Section 4(l)(b) of the Act at 50 per cent of the monthly wages multiplied by the relevant factor in Schedule IV to the Act. The amount of compensation works out to a little less than the minimum of Rs. 24 thousand if we proceed on the premise that he was aged about 45 years and his monthly income was Rs. 300. It would exceed Rs. 24 thousand by a fraction only if we proceed on the premise that he was 42 years of age and drawing about Rs. 360 per month. Learned counsel for the appellant very fairly stated that in this state of the evidence it would be appropriate to award him the minimum of Rs. 24 thousand. We, therefore, hold that he is entitled to Rs. 24 thousand by way of compensation.

6. The accident occurred way back in 1984 and, therefore, we must decide the rate of interest keeping that factor in mind. We think that it would be appropriate to grant interest at the rate of 9% per annum.

7. In the result, we allow this appeal, set aside the orders of the courts below and hold that the appellant is entitled to compensation of Rs. 24,000 with interest at the rate of 9% per annum from the date of accident i.e. 26-7-1984 till the date of recovery or actual payment. We direct the respondent to deposit the amount in the Court of Senior Sub-Judge, Sangrur, within three months from today, failing which the appellant will be entitled to recover the same in accordance with law. There will be no order as to costs.