

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

**Appeal from Order No. 537 of 2001**  
(Old FAFO No. 208/1988)

Bhumi Sanrakshan Adhikari  
Almora

.....Defendant/Appellant

**Versus**

Aan Singh  
S/o Sri Bishan Singh  
R/o Village Malli Dhauni  
Patti Talla Lakhanpur  
District Almora

.....Plaintiff/respondent

Chief Standing Counsel for the appellant.

**Hon'ble Prafulla C. Pant, J.**

Heard learned counsel for the parties.

2. This appeal, preferred under Section 30 of Workmen's Compensation Act, 1923, is directed against the award dated 11.03.1988 by Workmen Compensation Commissioner/District Magistrate, Almora, whereby Rs. 9072/- has been awarded as compensation.

3. Brief facts of the case are that the claimant/respondent was employee of the Government and during the course of his duty, he got injured due to which his leg got fractured. At the time of said accident, the claimant/respondent was being paid Rs. 390/- per month as wages. He claimed Rs. 21,714.23, as compensation on account of the injuries received by him. The appellant contested the claim petition before the Workmen Compensation Commissioner by filing the written statement and denied the contents of claim petition. However, after recording the evidence, the Workmen Compensation Commissioner awarded Rs. 9072/- as compensation. Aggrieved by which, this appeal has been preferred.

4. Perusal of the record shows that claimant/respondent filed a certificate issued by Dr. G.C. Pande, Orthopaedic Surgeon, District Hospital, Almora. He also got himself examined in support of the facts alleged in the claim petition. The evidence of the claimant/respondent remained uncontroverted before the Workmen Compensation Commissioner, who found the fact established that on 13.09.1985, at about 3:30 P.M, the claimant/respondent who was working under the department of Soil Conservation and digging a pit, got fractured his left leg as a stone fell on him. The employer (present appellant), though raised a plea in the written statement that being a casual wager, the claimant was not entitled to the compensation claimed but the same was rejected by the Concerned Commissioner. It is pertinent to mention here the definition of 'Workman'. Section 2(1)(n) of Workmen Compensation Act, 1923, reads as under:-

“ ‘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-

- (i) a railway servant as defined in [clause (34) of section 2 of the Railways Act, 1989 (24 of 1989) ] not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or
- [(ia) (a) a master, seaman or other member of the crew of a ship,
- (b) a captain or other member of the crew of an aircraft,
- (c) a person recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle,

- (d) *a person recruited for work abroad by a company,  
and who is employed outside India in any such capacity as is specified in Schedule II and the ship, aircraft or motor vehicle, or company, as the case may be, is registered in India, or;]*
- (ii) *employed in any such capacity as is specified in Schedule II, whether the contract of employment was made before or after the 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.”*

Above definition clearly shows that in Sub-clause (ii) of clause (d), it is clearly mentioned that the person employed even on contract basis is a workman for the purposes of the Act. Daily wage workers who are working continuously are different than the persons employed for casual work.

5. In the circumstances, this Court is in agreement with the finding of the Workmen Compensation Commissioner and there is nothing on the record, which shows any error of fact or that of law on the part of said authority in awarding the compensation. The amount of compensation awarded is also reasonable one and according to the provisions of the aforesaid Act.

6. For the reasons, as discussed above, this appeal is devoid of merits and accordingly liable to be dismissed. The appeal is dismissed. No order, as to costs.

**(Prafulla C. Pant, J.)**

Dt: 28<sup>th</sup> February, 2006  
Sweta