

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the day 1st September, 1997.

CORAM : Hon'ble Dr. R.K. Saxena, J.M.

Hon'ble Mr. D.S. Baweja, A.M.

ORIGINAL APPLICATION NO. 941 OF 1993.

Union of India through General Manager,  
Baroda House, New Delhi, through D.R.M.,  
N. Railway, Allahabad.

..... Applicant.

(By Advocate Shri G.P. Agarwal)

Versus

1. Smt. Mithla Devi, W/o Late Chote Lal  
and others, R/o Village Mahula pathra,  
P.S. Atarra, District-Banda, U.P.

2. Commissioner Workmen Compensation Act at  
Mirzapur.

..... Respondents.

(By Advocate Shri A.K. Shukla)

O R D E R (ORAL )

By Hon'ble Dr. R.K. Saxena, Member (J)

1. The Union of India has filed this Original Application through General Manager, Baroda House, New Delhi, challenging the award given under the Workmen Compensation Act on 19.8.1992 whereby the present applicant has been directed to pay Compensation of ~~Rs~~ an amount Rs 92,053.70 paisa, Rs 19,331.20 paisa as interest, and penalty of Rs 23,013.25 paisa, totaling Rs 1,34,398.15 paisa to the defendant, of the deceased

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Chhote Lal. The further amount of Rs 500/- was directed to be paid as cost.

2. The facts <sup>as</sup> ~~are~~ set out in the O.A and in the award are that one Smt Mithla Devi, widow of the deceased Chhote Lal had instituted a case on 11.9.1990 on the ground that Chhote Lal had died on 29.11.1989 while working under the present applicant but no compensation was paid to him. The respondent no. 2 found truth in the complaint of Smt. Mithla Devi and, therefore, passed the award as mentioned above. Feeling aggrieved by the impugned award, this Original Application has been filed with the relief mentioned hereinbefore.

3. The respondent no. 1 had filed the counter-affidavit contesting the case but no rejoinder has been filed thereto.

4. The matter is listed today for final hearing. <sup>is present</sup> Shri G.P. Agarwal counsel for the applicant <sup>but none</sup> appears for the respondents. We have heard Shri G.P. Agarwal.

5. The main question is <sup>whether</sup> ~~that~~ whether this Original Application is maintainable before this Tribunal. The impugned award was given under Workmen Compensation Act wherein there is provision to file an appeal before the High Court. It is admitted fact that the applicant did not invoke to file such an appeal before the prescribed forum. In the case of K.P. Gupta <sup>Section 30 of the Act</sup> ~~versus~~ Controller of Printing and Stationery JT

1995 (7) 522 their Lordships of Supreme Court have held that the provision of an appeal, if prescribed, is not taken away by Section 28 of Administrative Tribunals Act, 1985. The result is that the present applicant should have approached the High Court Under Section 30 of the Act. The O.A does not remain maintainable here. It stands, therefore, dismissed. The applicant, if so advised, may still approach the High Court. The stay order granted on 22.6.1993, stands vacated.

*D. B. Lucy*  
MEMBER (A)

*R. D. Dandekar*  
MEMBER (J)

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