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# **EXTENDING THE BOUNDS OF EMPLOYMENT: A CRITICAL ANALYSIS OF *MANJU SARKAR & ANR VS. MABISH MIAH & ORS (2014)* IN LIGHT OF THE DOCTRINE OF NOTIONAL EXTENSION**

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## **INTRODUCTION**

The Employee Compensation Act of 1923 was the first step taken by the Government of India to provide the workmen's family with relief or compensation if they get into an accident which results in their death or a disability. This case deals with the theory of notional extension and when a worker's course of employment begins and ends, and how it is dealt with differently according to the facts and circumstances of each case.

## **SUMMARY OF FACTS<sup>1</sup>**

In this case, Manju Sarkar is the Appellant and Mabish Miah is the Respondent. Mabish Miah and Respondent 2 are supposedly the joint owners of a truck, for which they had taken a policy of insurance with Respondent 3, Sajal Sarkar, who is also the husband of Appellant Manju Sarkar. The respondents 1 and 2 had employed the appellant 1's husband as the driver of the said truck vehicle. On 14.05.2005, Sajal Sarkar drove the truck and reached Dharmanagar from Agartala. During the travel, he noticed that there had been some mechanical faults in the truck, and so he stopped his journey and got down to make the necessary arrangements to repair the vehicle. On 15.05.2005, around 1:30 am that night, Sajal Sarkar met with a road accident and suffered grievous injuries in the road of Assam Agartala within the limits of Churaibari Police Station, and he was later taken to the Dharmanagar Hospital, where he succumbed to the injuries during the early hours of 15.05.2005. Bikram Deb, who was the helper of the truck, went in search of Sajal Sarkar and came to know about the accident. Later on, he went to the Dharmanagar Hospital and confirmed the death of driver Sajal Sarkar. Bikram Deb went to the Churaibari Police Station and registered a complaint and an FIR was filed for the alleged

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<sup>1</sup> <https://indiankanoon.org/doc/152518862/>

offences under Sections 279<sup>2</sup> and 304A<sup>3</sup> of the Indian Penal Code. The Appellant No. 1, Manju Sarkar, along with Appellant No. 2, their minor daughter, and Appellant No. 3, the mother-in-law, filed a suit under the Workmen's Compensation Act, 1923, before the Commissioner, contending that Sajal Sarkar met with an accident during the course of his employment under Respondent 1 and 2, which ultimately resulted in his death, and that they're both jointly liable to pay a compensation of Rs. 7 lakhs along with interest according to the provisions of the act. The suit was dismissed by the commissioner. This was challenged by the appellants by filing an appeal in the High Court. Aggrieved by the same, the appellants have preferred an appeal.

### **CONTENTIONS MADE BY THE PARTIES<sup>4</sup>**

The counsel for the appellants contended that Sajal Sarkar met with an accident which resulted in his death during the course of his employment under Respondent No. 1 and 2. The courts which dismissed the suit have failed to take into notice the Principle of Notional Extension.

The counsel for the respondents contended that the appellant's husband Sajal Sarkar has parked the truck at the godown complex of FCI Churaibari, and since it'd take some time to load the goods into the truck, he left the place, and went somewhere else to attend his personal affairs, after informing the helper Bikram Deb that he would return by night. The appellants here have failed to prove that the truck has some mechanical issue as it was pleaded by them, and hence, that would ultimately mean that Sajal Sarkar did not suffer those injuries during the course of his employment. Therefore, the respondents contended saying that the appellants are not entitled to receive any compensation under the Act, as it was previously rightly held by the lower courts.

### **JUDGMENT GIVEN BY THE COURT**

After carefully analysing all the contentions made by the parties, the FIR and the final reports submitted by the police authorities, and careful perusal of the records, the court held that Sajal Sarkar did in fact get into an accident, sustained grievous injuries, which ultimately lead to his death during the course of his employment.

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<sup>2</sup> "Rash driving or riding on a public way" – Section 279 of the Indian Penal Code

<sup>3</sup> "Causing death by negligence" – Section 304A of the Indian Penal Code

<sup>4</sup> <https://www.legalauthority.in/judgement/manju-sarkar-vs-mabish-miah-5290>

The court referred to the judgment laid down in the case of *General Manager B.E.S.T. Undertaking, Bombay V. Mrs. Agnes*<sup>5</sup>, in which the court said that when an employment begins and ends must always be decided on a case-to-case basis, depending upon all the facts and circumstance of each of the case. The court have agreed that the course of employment does not come to an end when the worker leaves the premises where he is actually working.

As per Section 4<sup>6</sup>(1)(a) of the Act, a total sum of Rs. 4,98,082 was to be paid to the appellants as compensation, along with Rs. 10,000 towards the funeral expenses, according to Section 4(4) of the said Act.

## CRITICAL ANALYSIS

### RELEVANT PROVISIONS AND PRINCIPLES

- According to *Section 3 of the Workmen Compensation Act, 1923*, the workmen have the right to get compensation/relief for death or disablement caused by an accident which arose during the course of employment.
- *The Doctrine of Notional Extension* states that compensation has to be paid to the workers in case they get into an accident during the course of the employment. The original intention behind the adaptation of this theory is to include within its scope, not only the accidents and injuries that arise at the workplace, but also the injuries that originate not necessarily at the workplace or during the official working hours, or while coming or going from the working premises<sup>7</sup>.
- The compensation which has to be paid to the dependants of the workmen are to be calculated according to *Section 4 of the Workmen Compensation Act, 1923*. The Section states that in case an employee dies during the course of an employment, an amount which is equal to 50% of the monthly wages of the employee multiplied by a factor which has been specified in Schedule 4 of the act, or Rs. 80,000, whichever is higher, has to be paid to the dependants of the workmen. In case the employee suffers total disablement, the amount to be paid is either 60% of the monthly wages or Rs.

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<sup>5</sup> 1964 AIR 193

<sup>6</sup> “Amount of Compensation” – Section 4 of the Workmen Compensation Act, 1923

<sup>7</sup> <https://www.juscorpus.com/notional-extension-of-employers-premises-in-labour-law/>

90,000, whichever is higher. In case the employee suffers permanent partial disablement, the compensation to be provided has to be equal to 60% of the monthly wages or Rs. 90,000, whichever is higher.

### **ANALYSIS BY THE JUDGES C. NAGAPPAN AND T.S. THAKUR**

After carefully considering the rival contentions and perusing the records made by the appellants and respondents, the court said that from the pleadings they find it very clear that Sajal Sarkar was employed by the respondent No. 1 and 2. The respondents had stated that Sajal Sarkar was employed to drive the truck on 13.5.2005 and on the same day the said truck had entered the godown complex of FCI at Churaibari, the court found that this statement about the timing and dates does not appear to be correct.

It was categorically stated in the petition that Sajal Sarkar drove the truck on 14.05.2005 and the said vehicle reached the godown on the same day, and this was further corroborated by the averments in the First Information Report as well as the Final Information Report.

The respondents had stated that Sajal Sarkar's employment had come to an end when the truck reached the godown. The court found that this appears to be the afterthought of the respondents and factually incorrect. According to the averments made in the First Information Report which was lodged by the helper Bikram Deb, the truck had reached the FCI godown on 14.05.2005 and Sajal Sarkar was supposed to return to Agartala with rice bags. Since there was a delay in loading the goods into the truck, Sajal Sarkar left the place, leaving the truck in the care of the helper and told him that he'd return by night. Since Sajal Sarkar did not return at night, the helper went in search of him in the morning, and came to know about the accident which ultimately led to the death of Sajal Sarkar. After coming to know about this incident, the helper Bikram Deb filed a complaint at the nearby police station.

If Sajal Sarkar was actually only employed for the trip from Agartala to the FCI godown, then there would have been no need for him to inform the helper that he'd return back by night to take the truck back to Agartala with the loaded goods. And in the same way, there was no need or obligation on the part of the helper to go search for the driver the next morning.

The court finds that these circumstances which were stated in the FIR and the final reports make it clear that Sajal Sarkar was employed to take the truck to the FCI godown and back to

Agartala with the rice bags.

The courts have rejected the claimants claim that Sajal Sarkar got down the truck in the middle of the night due to some mechanical issues, since there was no mention of that in the First Information Report. The relevant question here is “Whether Sajal Sarkar continued to be in his course of employment under Respondent No. 1 and 2 at the time of sustaining injuries in the accident which led to his death?”

### **CRITIQUE ON ANALYSIS**

I feel like the lower courts were neglectful in carefully perusing all the reports and records that were submitted to them. If they had read the FIR and the final reports along with the contentions that were made the parties thoroughly, they could have easily identified that the respondents’ statements were not matching with what was mentioned in the FIR.

The Judges at the Supreme Court rightfully did what the lower courts failed to do: they analysed the case keeping in mind the theory of notional extension, and according to the facts and circumstance of the case, we can clearly see that Sajal Sarkar only left the godown for sometime as it was taking time for them to load the goods onto the truck.

He also told the helper Bikram Deb that he would return at night to complete his job of taking the truck back to Agartala. The court’s decision was right, and the judgement delivered definitely did justice to the appellants.

### **CONCLUSION**

In this case, the Doctrine of Notional Extension played a significant role in determining whether or not the workman Sajal Sarkar died during his course of employment. Even though the lower courts were neglectful while making their decision, the Supreme Court however, carefully perused the averments made in the petition as well as all the incidents that were reported in the FIR and delivered justice to the appellants by providing them with what is rightfully theirs.