

**HIGH COURT OF GUJARAT****TRIKAMBHAI D TRAMBADIA***Versus***GEETABEN P TRAMBADIA WD/O PARSHOTTAMBHAI T TRAMBADIA****Date of Decision:** 30 January 2008**Citation:** 2008 LawSuit(Guj) 300**Hon'ble Judges:** [M R Shah](#)**Case Type:** First Appeal**Case No:** 6509 of 1995**Subject:** Labour and Industrial**Acts Referred:**[Workmens Compensation Act, 1923 Sec 30](#)**Final Decision:** Appeal dismissed**Advocates:** [P T Jasani](#), [Nanavati Associates](#), [P V Nanavati](#), [Vibhuti Nanavati](#)

**[1]** Present appeal is filed by the appellants original applicant Nos. 1 and 2 under Section 30 of the Workmen's Compensation Act; 1923 against the order of distribution of compensation dated 26.06.1995 passed below Exh.9 in Workmen Compensation (Fatal) Distribution Application No.30 of 1995 by the Ex.Officio Workmen Compensation Commissioner at Rajkot in so far the compensation distributing the amount of compensation to respondent No.1 herein for an amount of Rs.50,000/- out of the compensation deposited by the employer.

**[2]** It appears from the record and the order that son of the appellants herein and husband of respondent No.1 died due to electric shock on 23.03.1995 while he was on duty with respondent No.2 M/s.Viyoflex Pvt.Ltd. The employer deposited an amount of Rs.79,760/- with the learned Workmen Compensation Commissioner, Rajkot being amount of compensation on the death of the said workman. Thereafter, the appellants herein and respondent No.1 widow of the deceased workmen submitted joint application at Exh.9 for distributing the amount of compensation which was deposited by the employer by submitting that they are dependents. All the three applicants submitted affidavits at Exh.10, Exh.11 and Exh.12. Considering the fact that

respondent No.1 was widow of the deceased workmen, the learned Commissioner for Workmen Compensation, Rajkot passed an order directing to pay an amount of Rs.5000/- to respondent No.1 by account payee cheque and to deposit an amount of Rs.45,000/- in the Fixed Deposit for a period of five years in the name of respondent No.1 widow of the deceased workmen; further directed to pay an amount of Rs.2760/- by Account Payee Cheque to the appellant herein being father of the deceased workmen; further passed an order to deposit an amount of Rs.12000/- in the name of appellant No.1 in the Fixed Deposit for a period of five years. Learned Commissioner, further passed an order to pay Rs.3000/- by way of Account Payee Cheque in favour of appellant No.2 being mother of the deceased Workman and further passed an order to deposit Rs.12,000/- in the Fixed Deposit in the name of appellant No.2 for a period of five years.

**[3]** The learned Commissioner for Workmen Compensation, Rajkot accordingly disposed of the said Distribution Application No. 30 of 1995 vide order dated 26.06.1995. Being aggrieved and dissatisfied with the order passed by the learned Commissioner for Workmen Compensation, Rajkot in not distributing the amount of compensation deposited by the employer in equal proportion, the appellants herein parents of the deceased workmen, have preferred the present First Appeal under Section 30 of the Workmen Compensation Act. It appears from the Memo of the Appeal that the appellants have also challenged the amount of compensation deposited by the employer by submitting that they are entitled to Rs.1,59,520/- as against an amount of Rs.79,760/- deposited by the employer.

**[4]** Having heard the learned Advocates appearing behalf of the respective parties, it appears that against the impugned order passed by the learned Commissioner for Workmen Compensation in Workmen Compensation (Fatal) Distribution Application No. 30 of 1995, the appeal under Section 30 of the Workmen Compensation Act is not maintainable. Even otherwise, in the facts and circumstances of the fact and considering the fact that widow of the deceased workmen is paid an amount of Rs.50,000/- against an amount of Rs.25,000/- paid to the appellants, there is no substantial question of law involved in the appeal, hence, there is no substance in the present appeal and same deserves dismissal. So far as the grievance made by the appellants with respect to quantum of compensation is concerned, it is required to be noted that the appellants and respondent No.1 have submitted before the learned Commissioner for Workmen Compensation that they accept the amount of compensation deposited by the employer and they do not want to file any case. Having satisfied with the amount of compensation deposited by the employer and having not filed any application for compensation before the Commissioner for Workmen

Compensation, it is not open for the appellants to submit now distributing the amount of compensation.

**[5]** For the reasons stated above, the appeal fails, deserves dismissal and accordingly it is dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs.

