

The transaction in this case is the one in which the deceased was murdered on September 19, 1949. The transaction cannot be restricted to the physical cause of death. If events prior to the death can be taken into account, as indeed they can be, according to the judgment of Lord Atkin, the transaction would include the connected events which culminated in death. Whether there is a proximate relation between the commencement of the transaction and the ending thereof is a matter to be determined on the facts of each case. Here there is a clear connection between the complaint made by the deceased, the warning given by Ana Maria to the appellant, and the actual stabbing. The majority of us are of opinion that the statement made by the deceased is a statement as to some of the circumstances of the transaction which resulted in her death within the meaning of section 32 (1) and was rightly admitted in evidence. We would accordingly dismiss the appeal.

*Appeal dismissed.*

1949

*Present: Wijeyewardene C.J.*

CHRISTOFFELSZ, Appellant, and DHANARATH MENIKA,  
Respondent

*S. C. 314—Workmen's Compensation Case No. C 3/140/47*

*Workmen's Compensation Ordinance—Failure to make claim in time—  
Ignorance of provisions of Ordinance—Not sufficient cause—Chapter  
117—Section 16.*

Ignorance of the provisions of section 16 (1) of the Workmen's Compensation Ordinance is not a sufficient cause within the meaning of section 16 (2) for failure to make a claim within the prescribed time.

**A**PPPEAL on a question of law under the Workmen's Compensation Ordinance.

*H. W. Jayewardene*, for the appellant.

*N. D. M. Samarakoon*, Crown Counsel, as *amicus curiae*.

*Cur. adv. vult.*

July 25, 1949. WIJEYWARDENE C.J.—

This is an appeal on a question of law under the Workmen's Compensation Ordinance.

The applicant-respondent instituted this claim for compensation against the respondent-appellant in respect of the death of her husband, W. M. Punchi Banda, on the ground that Punchi Banda died as the result of an accident arising out of and in the course of his employment under the respondent-appellant.

Punchi Banda died on December 17, 1947, immediately after he was gored by a bull of the respondent-appellant. The applicant-respondent sent petition A2 of December 29, 1947, to the Assistant Labour Controller, Ratnapura, making her claim for compensation and asking him to hold an inquiry and grant compensation. She wrote letter A1 of January 12 1948, inviting attention of that officer to A2. She instituted the present claim for compensation under section 16 of the Ordinance on July 12, 1948.

The Deputy Commissioner for Workmen's Compensation expressed the view that A2 and A1 indicated that the applicant-respondent "first sought relief through the intervention of the Assistant Commissioner of Labour at Ratnapura" and held, therefore, that the failure to institute the claim in due time was due to "sufficient cause". He awarded Rs. 600 as compensation, in addition to costs.

Section 16 (1) of the Ordinance enacts that "no proceedings for the recovery of compensation shall be maintainable before a Commissioner unless . . . the claim for compensation . . . has been instituted . . . within six months from the date of death". Section 16 (2) states that "The Commissioner may admit and decide any claim to compensation in any case notwithstanding . . . that the claim has not been instituted in due time . . . if he is satisfied that the failure so . . . to institute a claim . . . was due to sufficient cause".

The petition A2 or the letter A1 cannot be regarded as an application for compensation to the Commissioner of Workmen's Compensation (*vide* sections 2 and 34). The proceedings before the Commissioner do not show why the applicant-respondent sent A2 and A1 to the Assistant Labour Controller, Ratnapura. No evidence has been given seeking to explain the delay in making the claim before the Commissioner. The Crown Counsel, who appeared as *amicus curiae*, pleaded that the applicant-respondent addressed A2 and A1 to the Assistant Labour Controller, Ratnapura, owing to her ignorance of the provisions of the Ordinance. Even on that plea, I am unable to hold there is "sufficient cause" within the meaning of section 16 (2). If I hold that the ignorance of the provisions of section 16 (1) is a "sufficient cause" for failing to comply with its requirements, I would, in effect, be repealing that part of the Ordinance (*vide Roles v. Pascall & Sons*<sup>1</sup>).

I am compelled to reverse the order of the Commissioner and dismiss the application of the applicant-respondent. I make no order as to costs.

*Appeal allowed.*

1949

*Present: Canekeeratne J. and Basnayake J.*

PUNCHIMAHATMAYA, Appellant, and MEDAGAMA,  
Respondent

*S. C. 420—D. C. Kandy, 1,133*

*Partition—Transfer of undivided shares—Option to re-purchase—Action for partition by vendee—Divided block—Sale to third party—Trust—Is third party bound by condition?*

Plaintiff and her son by P1 transferred an undivided share of land to the first and second defendants. P1 reserved a right for re-purchase and was duly registered. First and second defendants brought an action for partition of the land and were in the final decree allotted a specific lot in lieu of their undivided shares. By 3D1 they sold this lot to the third defendant, a brother of the first defendant.

*Held*, that the third defendant held the lot subject to the condition for re-transfer.

<sup>1</sup> (1911) 1 King's Bench 982.