



Consumer Education and Research Centre, et al. v. Union of India and Others

Consumer Educ. & Research Ctr. v. Union of India, 1995 S.C.C. (3) (India).

Country: India

Region: Asia

Year: 1995

Court: Supreme Court of India

Health Topics: Chronic and noncommunicable diseases, Health systems and financing, Occupational health

Human Rights: Right to favorable working conditions, Right to health, Right to life, Right to social security

Facts

The Consumer Education and Research Center filed several writ petitions against the State of India under Article 32 (obligation to promote social justice and welfare of the people) of the Indian Constitution regarding the protection of workers against the occupational health hazards and diseases associated with asbestos exposure. The petitioner applied for remedial measures to fill in legislative gaps, to require mandatory compensation for occupational hazards and diseases or death to employees who did not qualify for such coverage under the existing Acts (Employees State Insurance Act and the Workmen Compensation Act), to provide adequate mechanisms for diagnosing and controlling asbestosis (such as mandatory mechanisms to measure levels of asbestos in workplaces coupled with expert panels to established permissible levels of asbestos), to establish a committee to recommend whether the dry process can be completely replaced by the wet, to keep health records of each workman for requisite minimum periods, to provide compulsory health insurance for employees, and finally to award compensation to those suffering from asbestos.

Decision and Reasoning

The Court granted the writ petitions. Specifically, the Court ordered that the "All Safety in the Use of Asbestos" regulations and guidelines published by the International Labour Organization be binding on all industries, that industries be bound to compensate employees for health hazards they had suffered as a result of asbestos exposure, the maintenance of health records of every worker for a minimum period of time, the obligatory adoption by all industries of the "Membrane Filter test" to detect asbestos, that industries provide compulsory health insurance coverage to those not covered by the existing schemes, the inspection of workers who may be suffering with asbestos-related health hazards to determine if they should be compensated.

In its discussion of the worker's right to health and a healthy and safe work environment, the Court cited several Articles from the Indian Constitution including Articles 38 (promote the welfare of the people), 39(e) (measures to ensure the health and strength of the workers), 42 (secure just and humane conditions of work), 43 (secure to all workers a decent standard of life), and 46 (protection of the poor from social injustice and all forms of exploitation).

The Court considered the worker's right to health to be an integral part of the right to life enshrined in Article 21 of the Indian Constitution.

Decision Excerpts

"19. (...) The development of the carcinogenic risk due to asbestos or any other carcinogenic agent, does not require a continuous exposure. The cancer risk does not cease when the exposure to the carcinogenic agent ceases, but rather the individual carries the increased risk for the remaining years of life. The exposure to asbestos and the resultant long tragic chain of adverse medical, legal and societal consequences, remains the legal and social responsibility of the employer or the producer not to endanger the workmen or the community of the society. He or it is not absolved of the inherent responsibility to the exposed workmen or the society at large. They have the responsibility legal, moral and social to provide protective measures to the workmen and to the public or all those who are exposed to the harmful consequences of their products. Mere adoption of regulations for the enforcement has no real meaning and efficacy without the professional, industrial and governmental resources and legal and moral determination to implement such regulations.

20. The preamble and Article 38 of the Constitution of India the supreme law, envisions social justice as its arch to ensure life to be meaningful and liveable with human dignity. Social justice, equality and dignity of person are corner stones of social democracy. The concept of social justice which the Constitution of India engrafted, consists of diverse principles essential for the orderly growth and development of personality of every citizen. "Social justice" is thus an integral part of "justice" in generic sense. Justice is the genus, of which social justice is one of its species."

"24. The expression "life" assured in Art.21 of the Constitution does not connote mere animal existence or continued drudgery through life. It has a much wider meaning which includes right to livelihood, better standard of life, hygienic conditions in work place and leisure. In *Olga Tellis v. Bombay Municipal Corporation*, 1985(3) SCC 545, this Court held that no person can live without the means of living i.e. means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective content of meaningfulness but it would make life impossible to live, leave aside what makes life liveable."

"28. (a) The workers, therefore, have a special place in a socialist pattern of society. They are not mere vendors of toil, they are not a marketable commodity to be purchased by the owners of capital. They are producers of wealth as much as capital and very much more. They supply labour without which capital would be impotent and they are, at the least, equal partners with capital in the enterprise. Our constitution has shown profound concern for the workers and given them a pride of place in the new socioeconomic order envisaged in the Preamble and the Directive Principles of State Policy."

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