

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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C.M.A.No.758 of 2011

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JUDGMENT:

This appeal under Section 30 of the Workmen's Compensation Act by the unsuccessful opposite party is directed against the order dated 23.04.2011 of the learned Commissioner for Workmen's Compensation & the Assistant Commissioner of Labour, Ongole passed in W.C.No.2 of 2009 (ACL).

2. I have heard the submissions of the learned counsel for the appellants/opposite party ('the opposite party', for brevity) and the learned counsel for the respondents 1 to 3 ('the applicants', for brevity). I have perused the material record.

3. The applicants 1 and 2 are the parents and the third applicant is the sister of the deceased Maddala Uday Kumar @ Siva Kumar. They had claimed compensation from the opposite party for the loss sustained by them due to the untimely death of the said deceased *inter alia* stating that the deceased had died in an accident, which had occurred out of and during the course of his employment as a Work Supervisor under the opposite party. The said application was resisted by the opposite party. On merits, the Tribunal had awarded compensation. The operative portion of the order of the Tribunal reads as follows:

'In the result, the opposite party-1 & 2 are liable to pay the compensation amount of Rs.4,41,780-00 (Rupees four lakhs forty one thousand seven hundred and eighty only). Therefore, I direct the opposite party-1 & 2 to deposit an amount of Rs.4,41,780/- (Rupees four lakhs forty one thousand seven hundred and eighty only) towards compensation payable to the applicants by way of Demand Draft drawn in favour of the "Commissioner for Workman's Compensation, Guntur" and submit the same in the office of the Joint Commissioner of Labour, Guntur Zone, 16/1, Arundelpet, Guntur within 30 days under intimation to this Court. If they fail to deposit

the awarded amount within 30 days from the date of receipt of this Order, they have to pay interest at 12% per annum from the date of accident to the date of realization in addition to penalty that may be imposed under Section 4-(A)(3) of the Act.'

3.1 Feeling aggrieved of the said orders, the opposite party had filed this appeal.

4. Before proceeding further, it is necessary to refer to the pleaded cases of the parties.

4.1 The case of the applicants, in brief, is this:

The deceased used to work as a Supervisor in the establishment of the opposite party. The opposite party had shifted the work spot from Hyderabad to Mushampalli village of Nalgonda District. The opposite party was paying a fixed salary of Rs.5,000/- per month to the deceased and was also providing food and shelter in the work area to him along with the daily wage workers who used to work under his supervision. The deceased was responsible for making all arrangements at the work spot. While so, on 25.11.2008 at about 8.30 PM, the deceased along with his labour maistry had proceeded on a motor cycle from Mushampalli to Nalgonda to purchase some items. On the way, at Annavaram, the motor cycle had dashed against a culvert. In the said accident, the deceased had sustained a head injury; and had succumbed to the said injury on the spot. The pillion rider-Vara Prasad who had also sustained injuries was shifted to the Government Hospital, Nalgonda. On receiving information, the co-supervisor by name Kishore had informed about the accident to one P.Manikyarao, who is a relative of the deceased. On his report, a case in Crime No.177 of 2008 was registered by the Station House Officer, Nalgonda Police Station. After inquest was held on 26.11.2008, post mortem was conducted over the dead body of the deceased in the Government General Hospital, Nalgonda. The opposite party had made all arrangements for shifting the dead body of the deceased to his native place Chirala. The deceased had thus died out of and during the course of his employment i.e., while discharging his duties as a Supervisor under the opposite party. After the death of the deceased, the opposite party had collected an amount of Rs.3,00,000/- towards Group Insurance on the

name of the deceased. When the applicants had approached the opposite party and made a claim for compensation, the opposite party did not pay any amount. Therefore, the applicants had issued four legal notices through their counsel. All the said notices were returned un-served. When the applicants had personally approached the opposite party, a proper reply was not given and a refusal was made to give the details of the employment of the deceased and the amounts due to the applicants. Hence, the applicants had filed the application for compensation.

4.2 It is pertinent to note that the claim application was originally filed by the father of the deceased. Subsequently, the mother and the sister of the deceased were impleaded as per orders dated 14.09.2010.

4.3 The opposite party had filed a counter. The contentions in the counter, in brief, are as follows:

The material averments in the application of the applicants are all false. The opposite party-a partnership concern, are Contractors working for erection of electrical lines, poles and Transformers. The opposite party are the sub-lessees (sub-contractors) for the said work. They had an oral agreement with the Labour Contractor; and the price was fixed for erection of poles and transformers. As per the arrangement, the work has to be done by the Contract Labour for the fixed contract amount. The labour contractor had made a subsequent arrangement to do the work through daily labourers or workers on payment of daily wages. The opposite party has to make payment of the amounts due to the labour contractor weekly once i.e., after the completion of the work; in turn the labour contractor has to pay the daily wages to the workers as per the arrangement he had made with the workers/labourers. Therefore, the deceased had never worked for the opposite party. He was only a daily labourer working under the labour contractor. Thus, the deceased was only a daily labourer and was receiving daily wages from his labour contractor. There is no employer-employee relationship between the opposite party and the deceased and therefore, they are not liable to pay any compensation. The deceased used to attend to field works with other labourers; and, the field work will be closed by 5 PM in the evening i.e., before Sun-set. Even as per the contents of the first information report, the deceased went along with one Vara Prasad on a

Hero Honda motor cycle for purchase of household articles and that on the way, the said vehicle had dashed against a culvert and that in the said accident, the deceased had died on the spot. Therefore, the accident had not occurred at the work-spot and out of and during the course of the employment of the deceased. There is no nexus or even a casual connection between the personal injury resulting in the death and his employment. The deceased went on a motorcycle to purchase household articles; and, the said work/errand is not referable to his duties at the work spot. The duty of the deceased has not given rise to the accident. In fact, on 25.01.2009, the village elders of Perlipadu village had contacted the opposite party along with mother and sister of the deceased and the labour contractor with a request to help the family members on compassionate grounds. Though the opposite party is not responsible to pay any amount on account of the death of the deceased, an amount of Rs.1,00,000/- was voluntarily paid in the form of a Fixed Deposit drawn on Corporation Bank, Kukatpally Branch, Hyderabad, in the name of Ramya Sudha, who is the sister of the deceased; and to that effect, the village elders had executed a letter. It was also agreed that the mother and the father of the deceased shall not claim any amount in future. The said amount was paid by the opposite party on humanitarian Grounds, though they are not liable to pay any compensation. The applicants are not entitled to claim any compensation from the opposite party. The claim petition is liable to be dismissed.'

4.4 Basing on the above pleadings, the learned Commissioner had framed the following issues for trial:

- 1) Whether the applicants are entitled for compensation as claimed in the claim application?
2. if so, to what relief the applicants are entitled to?

At trial, PWs 1 to 3 were examined and exhibits P1 to P13 were marked on the side of the applicants. RW1 was examined and exhibits D1 to D3 were marked. As already noted the learned Commissioner had allowed the application of the claimants and granted compensation.

4.5 The learned counsel for the appellant/opposite party would contend as follows:

The learned Commissioner was in error in awarding compensation in the absence of proof of employment of the deceased under the opposite party. The working hours at the work site will be over by 5 PM on each day. The death of the deceased had occurred at about 8.30 PM in a motor vehicle accident, that too, beyond the work site. The learned Commissioner did not take note of the fact that the accident had occurred beyond the work spot and not within the limits of the work spot and also beyond 5 PM, by which time, the working hours are over. There is no proof that the deceased worked on a salary of Rs.4,000/- per month. No work was assigned to the deceased to be discharged beyond the time of employment. The opposite party is a sub-lessee (sub-contractor) for the work of erection of electrical poles and Transformers. The work of electrical poles and transformers was entrusted to a labour contractor. Thus, the work was being carried out through a contractor K.Dhanraj. He was getting the work done by engaging labourers/workers. He was receiving payment once in a week from the opposite party and in turn, he is paying the wages to the labourers/workers engaged by him. The deceased is a labourer working under the sub-contractor, but not under the opposite party. The death had occurred at a distance of 6 KMs from the work site, but not within the range of the work site. There is no evidence brought on record to show that the applicant was employed as a Supervisor or a workman at the work place directly by the opposite party. The learned Commissioner had failed to take into consideration the amount of Rs.1,00,000/- paid to the applicants 2 and 3 on the mediation of the elders. The said contractor K.Dhanraj had also mediated for settlement of compensation to the respondents 2 and 3. The learned Commissioner had acted mechanically in accepting the claim of the applicants.

4.6 On the other hand, the learned counsel for the respondents 1 to 3/claimants while supporting the impugned order had *inter alia* contended as follows:

The contention that the deceased was employed under a labour contractor is not established by the opposite party. Not even the name and other details of the said contractor are stated in the counter. No documents showing payments to the said contractor are produced. For the first time, his name was mentioned in the memorandum of grounds filed before this Court. There is no material on record to

accept the contention which was raised as an after thought. The learned Commissioner had framed appropriate issues and had considered the facts correctly and the evidence in proper perspective. The learned Commissioner had properly had correctly determined the wage and the age of the deceased and awarded a compensation which is just, fair and reasonable. No substantial question of law is involved. There is no merit in any of the contentions of the opposite party. The order impugned does not call for any interference. The appeal is liable to be dismissed.

5. In view of the facts and submissions, the questions, which fall for determination in this appeal, are –

- i . Whether there is employee-employer relationship between the deceased and the opposite party? And, if so, whether the death of the deceased had occasioned out of and during the course of his employment under the opposite party? And, if so, whether the compensation awarded is just, reasonable and fair?**
- ii. Whether the order awarding compensation is not sustainable under facts and in law?**
- iii. To what relief?**

6. POINTS:

The basic facts are already stated supra, in detail. I have noted the submissions and I have perused the material record.

6.1 The 1st applicant, who is the father of the deceased, had deposed in line with his pleaded case. In his cross-examination, he had admitted that his son went to a shop for purchase of household articles. But, he had added that he wanted to purchase the articles for the staff as a Supervisor. He had further admitted that he did not file any appointment order to show that his son was employed under the opposite party. He had denied the suggestions given in line with the defence of the opposite party. PW2 who was said to be a coolie had stated that he along with twenty villagers used to attend the electrical works at Mushampally, Nalgonda District and that they worked for about six months in the establishment of the opposite party and that at that time, the deceased worked as an electrical supervisor on behalf of M/s. Sai Power Lines Company and that he used to take daily muster and that payments were used to be made once in a week as per the muster register after obtaining signatures of the coolies. He had also stated that in addition to the coolie amount of

Rs.200/-, the company was also paying Rs.5,000/- per month to the deceased and also used to provide food and shelter at the work site. He had also spoken about the accident in which the deceased had died and about the labour Maistry Vara Prasad sustaining injuries in the same accident. He had further testified that the opposite party had paid Rs.15,000/- towards funeral expenses and Rs.1,00,000/- as compensation to the parents of the labour Maistry Vara Prasad. According to his version, the opposite party had not given any appointment orders, but used to pay the wages after obtaining signatures in wage register and that Rs.1,00,000/- was paid to the parents of the labour Maistry and the electrical supervisor, i.e., the deceased who had worked on behalf of the opposite party. In his cross-examination, he had admitted that he is not having any proof to show that he had worked in the establishment of the opposite party and that Vara Prasad is his brother and that the management gave Rs.1,00,000/- as compensation and Rs.15,000/- towards funeral expenses to his parents and Rs.1,00,000/- to the mother of the deceased. He had denied the suggestion that he is deposing falsehood at the instance of PW1. PW3, a masonry coolie had also supported the version of PW1. According to his version, the deceased used to take muster daily and entrust the work through the Maistry; and, the company used to pay wages after obtaining signatures in the register through the deceased and that after completion of the work in the evening hours, they used to return to their residences which were provided by the company and that the deceased used to purchase food items and other articles in the neighbouring village for arranging materials to the workers and for supply of articles related to the work and that on the said day, i.e., on 25.11.2008, Uday Kumar had met with an accident while travelling on a motor cycle along with Vara Prasad and that both of them had sustained injuries and that the deceased had succumbed to the injuries on the spot and that Vara Prasad had died at Warangal Hospital and that he had received summons from the Court to give evidence. In his cross-examination, he had stated that they were paid coolie or wage once in every week and that he does not have any evidence to show that he had worked under the opposite party. Per contra, RW1 had deposed in line with the pleaded defence of the opposite party. He is a partner of M/s. Sai Power lines Contractors, i.e., the opposite party. He had asserted in his evidence that the deceased worked on daily wages under a labour contractor who is working for different people and that the said labour contractor used to work for many persons besides the opposite party and that the field work will be completed by 5 PM in the evening and that the documents filed by the applicants reveal that the

deceased had died only because of his negligence and that his death was not out of and during the course of his employment as the accident had occurred when he was engaged in personal works and that therefore, the applicants cannot claim any compensation. He had admitted that they had paid an amount of Rs.1,00,000/- to the legal heirs, but, had stated that the said amount was paid on humanitarian grounds by way of Fixed Deposit bond drawn from Corporation Bank, Kukatpalli in favour of Ramya Sudha, who is the sister of the deceased Uday Kumar, and that to that effect, a letter was executed by the mother of the deceased and the elders. In his further cross-examination, he had stated that his establishment undertakes erection of electrical poles, electrical lines and distribution transformers and that their business concern is situated at Hyderabad and that they execute their work through labour contractors and not personally and that they had executed the work of erection of around 250 small transformers with associated poles and lines at Mushampalli village of Nalgonda District and that they did not submit any particulars of sub-contract or main contract before the authority and that he did not also mention the same in the counter and that they also did not file any documentary proof about the payment particulars made to the labour contractor at Mushampalli and that they are having one motor cycle at Mushampalli and that he does not know the registration number of the said motorcycle, which was entrusted to the workers at Mushampalli. He had admitted that as per the contents of the inquest report exhibit P2, the deceased Uday Kumar is a workman under Sai Power Lines, i.e., the opposite party and that the deceased worked as a Supervisor and that he did not inform the police that the deceased is not their worker. He had also admitted that they have no record to show that the deceased was a daily wage worker under a labour contractor and that they had paid Rs.1,00,000/- under exhibit D3 and that exhibit D1 is the receipt given by the daughter of the 1st applicant, i.e., the unmarried sister of the deceased and that the receipt was passed in favour of the management of Sai Power Lines, Hyderabad. However, he had asserted that the said amount was paid on humanitarian grounds but not as compensation.

6.2 I have thus analytically examined the pleadings and the evidence brought on record in juxtaposition. The evidence of PW1 which was well corroborated by the version of independent witnesses sufficiently established the case of the applicants and discharged the initial onus of proof, which is upon them. The contents of the crime records also support the case of the applicants. Though the contention of the

opposite party is that the deceased was not employed under them directly and that he was a daily wage worker under a labour contractor no details of the labour contractor, if any, engaged by the opposite party are pleaded in the defence. No details of sub contract or main contract were either pleaded or spoken to by RW1 in his evidence. No documents are produced. The name of the labour contractor was not even suggested to PWs 1 to 3. The inquest report on a careful perusal would show that the deceased had worked as a supervisor under the opposite party. In fact, if really, the opposite party had employed a labour contractor to execute their work, they ought to have examined the said labour contractor or any of the representatives of the said contractor to prove their defence. But they did not do so. Therefore, there is no reliable evidence on the side of the opposite party to dislodge the well established case of the applicants. The evidence brought on record is sufficient to safely conclude that the deceased had worked as a Supervisor under the opposite party and that while proceeding on the motor cycle along with one Vara Prasad, for purchasing household articles, the accident in which the deceased had died, had occurred. Viewed thus, this Court finds that the learned Commissioner is justified in holding that the deceased was employed as a Supervisor in the establishment of the opposite party.

6.3 However, the further contentions of the opposite party are as follows: 'Even as per the contents of the first information report, the deceased went along with one Vara Prasad on a Hero Honda motor cycle for purchase of household articles and that on the way, the said vehicle had dashed against a culvert and that in the said accident, the deceased had died on the spot. Therefore, the accident had not occurred at the work-spot and out of and during the course of the employment of the deceased. There is no nexus or even a casual connection between the personal injury resulting in death and his employment. The deceased went on a motorcycle to purchase household articles and the said work/errand is not referable to his duties at the work spot. The duty of the deceased has not given raise to the accident.' On the other hand, the learned counsel for the applicants had contended that there is sufficient evidence on record to show that the accident resulting in the death of the deceased had occurred out of and during the course of his employment and that the accident resulting in the death has direct nexus with his duties and employment. I have bestowed my attention to the facts of the case and the evidence brought on

record.

6.4 Before proceeding further, it is necessary to refer to the following decisions: (i) **Kondisetti Anjaiah v. T.Lakshmaiah** (ii) **Sahira Bano v. Bawa Ram and Co.** (iii) **Oriental Insurance Co. Ltd v. Nanguli Singh** (iv) **National Insurance Company Limited v. Dhannu Ram** (v) **Shyama Devi v. Union of India** (vi) **Jyothi Ademma v. Plant Engineer, Nellore;** (vii) **South Eastern Coalfields Ltd. V. Sukrita Bai** and (viii) **Central Mine Planning & Design Institute Ltd. V. Ramu Pasi.**

In **Kondisetti Anjaiah** (1 supra), this Court summed up the legal principles involved in determining whether the accident had arisen out of and in the course of a person's employment and had held that it is enough if it is established that (1) at the time of the accident, he was in fact employed on the duties of his employment; (2) that it occurred at the place where he was performing those duties; and (3) that the immediate act which lead to the accident is not so remote from the sphere of his duties as to be regarded as something foreign to them. In **Sahira Bano** (2nd supra), the High Court of Jammu & Kashmir had referred to a decision of the Division Bench of the Mysore High Court, wherein it was observed that the phrase 'during the course of employment' does not in any way mean the discharge of the duties assigned strictly in accordance with the terms of the agreement but includes within its ambit the purpose of duties connected with, relating to or arising out of the employment but not being inconsistent with the specific directions of the employer. In **Nanguli Singh** (3 supra), the High Court of Orissa having referred to the decision of the Supreme Court in Mackinnon Mackenzie's case (1970-1-LLJ-16) noted the observations of the Supreme Court which are as follows:

"To come within the Act the injury by accident must arise both out of and in the course of employment. The words 'in the course of employment' mean 'in the course of the work which the workman is employed to do and which is incidental to it'. The words 'arising out of employment' are understood to mean that 'during the course of employment, injury has resulted from some risk incidental to the duties of the service, which, unless engaged in the duty owing to the master, it is reasonable to believe the workman would not otherwise have suffered'. There must be a casual relationship between the accident and the employment. If the accident had occurred on account of a risk which is an incident of the employment, the

claim for compensation must succeed, unless of course the workman has exposed himself to an added peril by his own imprudent act.”

(quoted from placitum)

In **Dhannu Ram** (4 supra), the facts disclose that a truck which was loaded and parked near Truck Union Buddi was being repaired and the driver had proceeded on a scooter to get some spare parts, which are required by the mechanic; and, while returning with the spare parts, he was involved in an accident with a truck and had died on the same day while receiving treatment. In this factual background, the High Court of Himachal Pradesh held that it cannot be said that the job of the driver begins and ends at the steering wheel only and that the maintenance of the vehicle is also a part of the job and that the accident in that case had taken place during the course of employment and arose out of employment of the deceased.

In **Shyama Devi** (5 supra), the facts of the case are as follows:

“The appellant’s husband was employed as a switchman at Rajahra railway station. His wife made a compensation claim inter alia contending that her husband died out of and during the course of his employment. At about 4 PM on that day of incident, a group of anti-social elements armed with deadly weapons trespassed the office of the Station Master at the railway station and had damaged the railway property. The deceased who was on duty between 8 AM and 4 PM, i.e., till just before the incident had left the office and reached his quarters. On hearing the commotion and that a mob had attacked the office of the Station Master, he took out his licenced gun and went to the railway station. And, while trying to pacify the mob, he had suffered a lathi-blow on the head and had ultimately died. Her claim was rejected by the learned Commissioner-cum-Judge, Labour Court holding that there was no casual connection between the death and the employment. The order of the Labour Court was upheld by the High Court.”

In the above stated factual backdrop, the Supreme Court held that there was no justification for coming to the finding that the death of the deceased did not arise during the course of employment merely because he had gone to his quarters after the duty period and had come to the railway station only after hearing commotion to pacify the mob. It was further held that the facts show that he was courageous to

come out of his quarters even after his duty hours to save the railway property and that therefore, there is no ground to deny to his dependants compensation under the Act.

In **Jyothi Ademma v. Plant Engineer, Nellore** (6 supra) the facts of the cited case are as under:

“The appellant’s husband was working in Nellore Thermal Station. On 24.9.1994 he had died at the work spot. Appellant had filed an application before the Commissioner claiming compensation of Rs. 1,00,000/-. Her stand in the claim petition was that the death was due to stress and strain closely linked with the employment of the deceased workman and, therefore, attributable to an accident arising out of and in the course of employment. The plea found favour with the Commissioner who made the award as noted above. The respondents filed an appeal under Section 30 of the Act before the High Court. The primary stand was that the deceased workman did not die on account of any injury sustained by him "in any accident arising out of and in the course of his employment". The High Court noted that there was no injury as such, but he died due to heart attack at the work spot. The High Court found that the nature of the job which the deceased workman was doing could not have caused any stress and strain and, therefore, the death due to heart attack can not be said to have been caused by any accident arising out of and in the course of his employment. In support of the appeal, the learned Counsel for the appellant submitted that whenever a person dies as a result of heart attack at the work spot, it can be said that he died due to the stress and strain of the working conditions. He, therefore, pleaded that the order of the Commissioner should be restored and that of the High Court be set aside, as the Commissioner had indicated reasons in support of his conclusions. There was no appearance on behalf of the respondents. In the case it has been brought on record that the deceased was suffering from chest disease and was previously being treated for such disease. The High Court also noted that the job of the deceased was only to switch on or off and, therefore, the doctor had clearly opined that there was no scope for any stress or strain in his duties.

In view of the factual findings recorded in the High Court's judgment, the Supreme Court had held that the order of the High Court does not suffer from any infirmity. However, considering the peculiar circumstances of the case, the Supreme Court had direct that there shall be no recovery from the appellant of any amount paid, though in view of its judgment she is not entitled to any compensation.

In **South Eastern Coalfields Ltd.** (7 supra) the facts and ratio are as under:

The respondents, the Legal representatives of the deceased workman filed an application before the Commissioner for Workmen's Compensation, claiming compensation on his death arising out of and during the course of employment with the appellant. The averments of respondents/claimants were that while returning from duty on January 22, 1991 at about 7 p.m. the deceased met with an accident near the barrier of their village Deepika and died on account of injuries sustained. The appellant/employer denied that the accident occurred while the said workman was returning from his duty. The appellant denied that he was liable for payment of compensation. It would appear from the impugned award that the deceased resided at village Deepika which is at a distance of 16 kms. from the work place. His duty hours ended at 4 p.m. on the date of accident. There are about 350 to 400 workmen in the general shift, in which the deceased was working. The deceased was required to get the out entry entered in the relevant register along with other workmen. It was therefore observed by the learned Commissioner that all this might have taken about two hours and therefore the accident was in the course of his employment.

It was noted that indisputably the accident occurred at Deepika barrier, which is one way from the work place of the deceased workman to village Deepika and that it has not been shown that the duration after the duty hours were over and the accident took place was such, that the deceased cannot be said to have been returning from duty.

In this factual matrix it was held that even if the deceased for some reason was detained for a short time, on the way to his home after the duty, it would not absolve the appellant/employer from the liability to pay the amount of award. While holding that as no substantial question of law was involved in the appeal, the same was dismissed without notice to the respondent.

6.5 I have thus carefully gone through all the decisions cited and noted the facts and the ratios. The evidence on record discloses that the deceased was enjoined with the duty of providing food items and articles of work to the workers employed at the work site and that the workers including the deceased were provided residential accommodation at the work site and that the deceased was procuring the food items for the consumption of the workers and also the articles of work which are required to be used at the work spot and that on that night on which the accident had occurred, he had proceeded on the two wheeler along with another worker to purchase such items/articles in connection with his work. Therefore, the contention that the accident had occurred beyond working hours and that the work or errand

with which the deceased was engaged on that night is not referable to his duties at the work spot cannot be countenanced. In the light of the legal position obtaining and the facts and the brought on record there is sufficient material to hold that there is casual connection and that the immediate act which lead to the accident is not so remote from the sphere of his duties as to be regarded as something foreign to them. As a sequel it must be held that the death of the deceased had occasioned out of and during the course of his employment under the opposite party. In **Central Mine Planning & Design Institute Ltd. V. Ramu Pasi** (6 supra), the Supreme Court on facts found that the respondent/workman was a casual worker and that there was also no definite material adduced to show that he was employed for the purpose of employer's trade or business and that the expression 'workman' as defined in the Act does not cover a casual worker and that therefore, the application before the Labour Court was clearly not maintainable. Be it noted that this Court having adverted to the evidence brought on record had already agreed with the finding of the learned Commissioner that the deceased was employed as a Supervisor under the opposite party. Therefore, the ratio in this cited decision does not advance the case of the opposite party/appellant. Having regard to the reasons and findings that there is employee-employer relationship between the deceased and the opposite party and that the death of the deceased had occasioned out of and during the course of his employment under the opposite party this Court holds that the learned Commissioner is justified in passing the order awarding compensation and that the said order is sustainable under facts and in law. As sequel it must be held that the appeal is devoid of merit and is liable to be dismissed. The points are accordingly answered against the appellant/opposite party.

7. In the result, the appeal is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this appeal shall stand closed.

M. SEETHARAMA MURTI, J

16th September 2015

RAR