

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.3020 of 2004

JUDGMENT:

This appeal is against order dated 31.01.2001 in W.C.No.50 of 1998 on the file of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour-I Circle, Guntur, whereunder, Commissioner for Workmen's Compensation granted Rs.73,816/- as against claim of Rs.2,00,000/-.

2. Brief facts leading to this appeal are as follows:

Appellants submitted an application to the Commissioner under Workmen Compensation Act contending that deceased Shaik Saida was working as a driver on lorry bearing No.AEG 2637 belonging to 1st respondent herein and insured with 2nd respondent and that he died on 17.05.1995 while going to Tadepalli side with the load of mangoes during the course of his employment within the jurisdiction of Chebrolu Police Station of West Godavari District. The claimants contended that deceased was getting Rs.2,500/- per month as wages including batta at the time of accident and on that basis they claimed compensation of Rs.2,00,000/-.

3. Opposite Party No.1-1st respondent herein filed counter admitting the relationship of employee and employer and contended that the vehicle is insured with

2nd respondent and the Insurance Company is liable to pay the compensation.

4. Insurance Company filed counter disputing the petition averments and contended that the claim of claimants is high and excessive.

5. On these contentions and rival contentions, Assistant Commissioner of Labour-I Circle, Guntur, conducted an enquiry, during which one witness is examined and five documents are marked on behalf of claimants, whereas no witness is examined and no document is marked on behalf of contesting respondent. On a overall consideration of oral and documentary evidence, Assistant Commissioner of Labour-I Circle, Guntur, granted Rs.73,816/- as compensation and not satisfied with the quantum, claimants preferred the present appeal.

6. Heard both sides.

7. Now the point that would arise for my consideration in this appeal is:

Whether the order dated 31.01.2001 in W.C.No.50 of 1998 of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour-I Circle, Guntur, is legal, proper and correct?

-

POINT :

8. There is no dispute with regard to death of Shaik Saida in an accident that took place on 17.05.1995. It is also not in dispute that Shaik Saida was working as a

driver under 1st respondent on lorry bearing No.AEG 2637 as on the date of accident. According to claimants, deceased Shaik Saida was getting Rs.2,500/- per month as wages including batta. Now the grievance of claimants is that lower authority has not accepted the wages of the deceased Shaik Saida as claimed by them, but unilaterally fixed Rs.1,000/- without any basis. Advocate for appellants submitted that even according to Assistant Commissioner of Labour-I Circle, Guntur, minimum wages for a heavy vehicle driver was Rs.1,215/- and VDA was Rs.628/- and the total was Rs.1,843/-. But without taking that amount, Assistant Commissioner of Labour-I Circle, Guntur, has unilaterally fixed Rs.1,000/-, which is not correct, therefore, the findings of Assistant Commissioner of Labour-I Circle, Guntur, with regard to wages of the deceased have to be modified.

9. Learned Advocate for Insurance Company contended that lower authority rightly restricted the wages to Rs.1,000/- and that there are no grounds to interfere.

10. As seen from the impugned order as per G.O.Ms.No.71, dated 16.04.1991 minimum wages for a heavy vehicle driver in a public motor transport was Rs.1,215/- and VDA applicable for it was Rs.628/- and the total comes to Rs.1,843/-. But the lower authority without taking this amount as wages of deceased has restricted it to Rs.1,000/-. As rightly pointed out by advocate for appellants when claimants are legal heirs of the deceased

driver and when the minimum wages do show that deceased is entitled for wages of Rs.1,843/-, the lower authority cannot reduce it without any justifiable reasons. Therefore, I am of the view that Assistant Commissioner of Labour-I Circle, Guntur, was wrong in restricting the wages to Rs.1,000/- having recorded that the minimum wages of heavy vehicle driver including VDA was Rs.1,843/-. Therefore, this amount of Rs.1,843/- has to be taken for the purpose of calculation of compensation. If a calculation is made by taking the wages of the deceased as Rs.1,843/- by applying the multiplier applicable to the age group of deceased, it comes to Rs.1,69,712.65 (Rs.1,843/- x 50% x 184.17). Thus, the claimants are entitled to Rs.1,69,713/- (Rupees one lakh sixty nine thousand seven hundred and thirteen only), which is rounded, with interest as granted by the lower authority and the Insurance Company shall deposit the difference amount with the same interest rate within 30 days from today.

11. Accordingly, appeal is allowed with proportionate costs.

12. Miscellaneous Petitions, if any, shall stand dismissed.

S. RAVI KUMAR, J

4th February 2015.

mar