

**HON'BLE SRI JUSTICE S. RAVI KUMAR**

**CIVIL MISCELLANEOUS APPEAL No.2331 of 2004**

**JUDGMENT:**

This appeal is against order dated 31.01.2004 in W.C.No.10 of 2002 on the file of the Commissioner for Workmen Compensation and Assistant Commissioner of Labour-II Circle, Guntur, where under, he granted Rs.2,11,790/- besides stamp duty of Rs.424/- as compensation as against the claim of Rs.3,00,000/-.

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

Appellants-claimants are the legal heirs of deceased Appikarla Prasad, who was working as a driver on lorry bearing No.ATR 3483. They contended that deceased started from Vadlamudi Quarry with gravel load on 15.07.1998 and proceeding towards account Mirchi Godown situated at by-pass road and he died during course of employment and he was getting Rs.6,000/- per month and aged about 28 years as on the date of death.

3. The Assistant Commissioner of Labour-II Circle, Guntur, examined two witnesses and marked five documents on behalf of claimants and examined two witnesses and marked two documents on behalf of opposite parties and on a overall consideration of oral and documentary evidence, took the minimum wages at Rs.2,000/- per month and calculated compensation by taking the multiplier applicable to the age group of 28 years and assessed the compensation of Rs.2,11,790/-.

Aggrieved by the same, Insurance Company preferred the present appeal.

4. Heard both sides.

5. Advocate for appellant submitted that from the material on record, particularly, postmortem certificate, it is clear that deceased was suffering with heart ailment and that death was due to his ill-health but not due to stress and strain, therefore, the lower Authority is wrong in granting compensation. He further submitted that to make the owner liable to pay any compensation, there must be evidence to show that the work entrusted to employee caused stress and strain on the employee, but, from the material there is no such evidence, therefore, the award granted by the Commissioner is liable to be set aside.

6. On the other hand, learned counsel for the claimants submitted that the deceased on the fateful day was on duty and driving the vehicle, which caused stress and strain and that resulted the death due to heart failure and as he died during course of employment, the lower Authority was right in granting compensation. He submitted that the very same objection was also raised before the lower Authority and the lower Authority discarded the objection by considering the evidence on record, holding that the deceased had stress and strain due to driving.

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

*Whether the order in W.C.No.10 of 2002, of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour-II Circle, Guntur, is legal, proper and correct?*

**POINT :**

8. There is no dispute with regard to the death of deceased-

A.Prasad during course of employment. The only objection of appellant is that as the driver died due to heart attack, for that the employer cannot be made liable, consequently, Insurance Company is not liable to reimburse and the lower Authority went wrong in fixing liability on appellant.

9. As seen from the evidence, the deceased left Vadlamudi Quarry with gravel load on 15.07.1998 and on the way he stopped the lorry at Naveen Hotel, Narrakoduru, for dinner and that he did not take any food as he was not feeling well and drove the vehicle and complained vomiting on that he was shifted to Government General Hospital, Guntur, and he died there while taking treatment. The main point urged on behalf of appellant is that as there is no evidence of stress and strain to the driver, the death cannot be due to work load and it must be a natural one. I am unable to accept the submission of learned counsel for appellant because the driving itself would cause stress and strain, particularly, when the deceased was driving the vehicle without taking any food which may further a worsen situation when he

was a heart patient. Whatever be the reason the fact remains that the driver died during course of employment and stress and strain has to be inferred from the nature of job, therefore, the objection of Insurance Company cannot be sustained. On a scrutiny of the material, I am of the view that the lower Authority has rightly awarded compensation and there are no grounds to interfere with the findings of the lower Authority.

10. For these reasons, the civil miscellaneous appeal is dismissed. No costs.

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

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**S. RAVI KUMAR, J**

27<sup>th</sup> February 2015.

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