

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.1907 of 2004

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JUDGMENT:

This appeal is against order dated 25.02.2004 in W.C.No.67 of 2002 on the file of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour-IV, Hyderabad (for short, 'the lower Authority'), where under the lower Authority granted a sum of Rs.2,13,007/- as compensation to appellants herein for the death of Sharanappa.

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

Appellants submitted application to the lower Authority, contending that Sharanappa was working as cleaner on lorry bearing No.ATN 2421 and on 13.06.2002 he died in a accident while he was on duty when he came into contact with high tension wire and he was drawing a sum of Rs.4,000/- per month as salary besides batta of Rs.50/- per day and that he was 26 years as on the date of death and that appellants are entitled for a compensation of Rs.5,00,000/-.

3. Insurance Company disputed the claim of appellants and the lower Authority during enquiry, examined the wife of the deceased as AW.1 and marked five documents on behalf of claimants and no witness is examined but Ex.D.1 is marked on behalf of Insurance Company and on a overall consideration of oral and documentary evidence, the lower Authority granted Rs.2,13,007/- by taking the salary of the deceased at Rs.2002.75 ps. including VDA as per minimum wages fixed by the Government of Andhra Pradesh and not satisfied with the quantum, claimants preferred the present appeal.

4. Heard arguments.

5. Advocates for appellants submitted that the lower Authority has not

accepted the claim of appellants that deceased was earning Rs.4,000/- per month without any rebuttal evidence. He submitted that wife of the deceased deposed in her evidence that deceased was getting Rs.4,000/- per month and the same was not rebutted by the opposite party, in spite of that the lower Authority has not accepted the version of appellants and the same is incorrect and illegal. It is further submitted that the lower Authority has also not taken into consideration daily batta being paid to a cleaner and deceased died at young age of 26 years and the claim of appellants is very reasonable and lower Authority without any valid reasons discarded the claim of appellants and that the order of the lower Authority is to be set aside.

6. On the other hand, advocate for Insurance Company supported the order of the lower Authority. He contended that the lower Authority took the minimum wages fixed by the Government as the wages of the deceased for the purpose of calculating compensation and there is no illegality in the order of the lower Authority and that there are no grounds to interfere with the findings of the lower Authority.

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

Whether the order dated 25.02.2004 in W.C.No.67 of 2002 of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour-IV, Hyderabad, is legal, proper and correct?

POINT :

8. There is no dispute with regard to the accident that took place on 13.6.2002. There is also no dispute with regard to the relationship of employee and employer between the deceased and 1st respondent herein. As seen from the material, the deceased was working as cleaner on lorry bearing No.ATN 2421 and on 13.06.002 the said lorry after loading poultry feeds at Azianagar and when the deceased was tying tarpaulin, a live wire came into contact and due to shock he died on the spot. Appellant No.1 is wife, appellants No.2 and 3 are

children and appellants No.4 and 5 are younger sisters of the deceased. According to appellants, the deceased was earning Rs.4,000/- per month as wages besides Rs.50/- per day as daily batta. Wife of the deceased is examined as AW.1 and she deposed in her evidence that her husband was getting Rs.4,000/- per month besides batta of Rs.50/- per day. The main argument of advocate for appellants is that this part of evidence is not rebutted by other side as no one is examined on behalf of Insurance Company. Admittedly, no corroborative piece of evidence is produced to show that the deceased was getting Rs.4,000/- per month as wages. Naturally, AW.1, being the claimant, is interested in supporting her claim but what is required is some independent evidence to prove the wages of the deceased. No other witness is examined and no documentary proof is produced to support the version of AW.1 with regard to the wages of the deceased. The lower Authority has taken into consideration minimum wages fixed by the Government of Andhra Pradesh for the employees of public motor transport and took them into consideration while fixing the compensation. As rightly pointed out by advocate for Insurance Company when there is no positive and concrete proof supporting the wages pleaded by claimants, the lower Authority was right in taking the minimum wage fixed by Government of Andhra Pradesh for the employees in public motor transport. Admittedly, the deceased was a cleaner and the wages and VDA for a cleaner on public motor transport is Rs.1,437/- and Rs.565.75 ps. respectively. This total amount was taken by the lower Authority in calculating the compensation, therefore, I do not find wrong in the order of the lower Authority in fixing the compensation by taking minimum wages as applicable as on the date of accident. Therefore, the objection of appellants that the lower Authority ought to have taken Rs.4,000/- as wages of the deceased cannot be sustained.

9. For these reasons, I do not find any valid grounds to interfere with the findings of the lower Authority, therefore, the appeal is dismissed. No costs.

10. Miscellaneous Petitions pending, if any, shall stand closed.

S. RAVI KUMAR, J

24th March 2015.

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