

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.420 of 2015

ORDER :

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.31.07.2014 in W.C.I.A.No.13 of 2013 on the file of Commissioner for Employees' Compensation and Assistant Commissioner of Labour – II, Hyderabad.

2. The son of respondents by name G. Prasad *alias* Prakash was employed as a cleaner on a truck bearing No.AP 10U 5577 belonging to 3rd respondent. He suffered certain injuries while on duty on 29.04.2007 and succumbed to injuries on 30.04.2007 at Government Dispensary Hospital-cum-Medical College, Nagpur.

3. Crime No.83 of 2007 was also registered on the file of P.S. Hilna of Nagpur District.

4. The respondent nos.1 and 2 filed a claim under Section 10 of the Employees Compensation Act, 1923 seeking condonation of delay of (1706) days in filing the main application seeking compensation under the Act. They contended that after the death of their son they were in shock and mental agony, became destitute and had to spend huge amounts towards funeral expenses and transportation and were under a serious financial crisis.

They further contended that documents regarding the accident also were unavailable to them since the police hesitated to issue the same in time, and they did not know the legal procedure to file a case for compensation. Therefore, they contended that they could not approach the Commissioner under the Act seeking compensation within the prescribed time and the delay in filing the claim petition be condoned.

5. Counter-affidavit was filed by petitioner herein, who was arrayed as 2nd respondent before the Commissioner, opposing the condonation of delay. He contended that the claim, after a lapse of six years, cannot be entertained in the absence of any reasonable explanation for the delay.

6. By order dt.31.07.2014, the Commissioner held that there is nothing to disbelieve the contentions of respondent nos.1 and 2, and since the legislation '*Employees' Compensation Act*' is a welfare legislation, technical considerations cannot be allowed to defeat substantive justice, particularly when the delay is not deliberate.

7. Questioning the same, the present Revision is filed.

8. Heard, Sri A.V.K.S. Prasad, counsel for petitioner. None appears for respondent.

9. The counsel for petitioner contended that no sufficient cause has been shown for condoning the inordinate delay of (1706) days; and that the pleas of respondent nos.1 and 2 cannot be accepted at face value.

10. It is not disputed that the proviso to Section 10 (b) of the Employees' Compensation Act, 1923 (for short, 'the Act') enables the Commissioner to entertain and decide any claim to compensation, even if such claim was not preferred in due time, if he is satisfied that the failure to prefer the claim was due to a sufficient cause.

11. In the present case, it is not disputed that respondent nos.1 and 2 are residents of Hyderabad, while the accident in which their son died resulting in his death, took place at Nagpur and police case was also registered in Nagpur District in P.S. Hilna.

12. In these circumstances, considering the pleading of respondent nos.1 and 2, it cannot be said that there is any deliberate delay on their part in approaching the Commissioner seeking compensation under the provisions of the Act. Therefore, I am of the opinion that the Commissioner was right in condoning the delay of (1706) days in filing the petition by respondent nos.1 and 2 seeking compensation. Therefore, I do not find any merit in the Revision, and it is accordingly dismissed. No

order as to costs.

13. Miscellaneous applications, pending if any in this Revision, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 05.08.2015

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