

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.3559 of 2004

JUDGMENT:

This appeal is preferred against orders dated 29.08.2002 in W.C.No.6 of 2002 on the file of Commissioner for Women's Compensation & Assistant Commissioner of Labour, Ongole, whereunder, he granted compensation of Rs.3,39,721/-. Aggrieved by the said order, insurance company preferred present appeal.

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

The claimant, who is wife of deceased-driver on lorry bearing No.AP 7V 3493 belonging to first respondent herein filed application before Commissioner for Workmen's Compensation, claiming compensation of Rs.2,00,000/- and subsequently filed enhancement application on 13.04.2002 claiming a total compensation of Rs.4,00,000/- and the lower authority conducted enquiry. During which, one witness is examined and five (5) documents are marked on behalf of claimants and one witness is examined and one (1) document is marked on behalf of insurance company and on a over all consideration of oral and documentary evidence, the lower authority granted Rs.3,39,271/- by taking wages of the deceased at Rs.2,587/- and V.D.A of Rs.588/- as per G.O.Ms.No.30 dated 27.07.2000. Aggrieved by the said compensation, insurance company preferred present appeal.

3. The main ground on which appeal preferred by insurance company is that though claimant claimed only Rs.2,00,000/-, the lower authority granted Rs.3,39,721/-, thereby, the lower authority erred in granting compensation.

4. Learned counsel for insurance company mainly contended that the lower authority granted over and above the claim, therefore, order of the lower authority has to be modified.

5. Now the point that would arise for my consideration is:

Whether the order of the Commissioner for Workmen's Compensation & Assistant Commissioner of Labour, Ongole is legal, proper and correct?

POINT:

6. I have perused the material including the original claim application filed on 06.02.2002 in which only Rs.2,00,000/- was claimed and Court fee was also paid to that amount. But subsequently on 13.04.2002 claimant filed petition for enhancement of her claim from Rs.2,00,000/- to Rs.4,00,000/- and paid difference of Court fee and thereafter enquiry was conducted and claimant was examined as a witness on 29.06.2002, wherein, she clearly deposed that she claimed for a sum of Rs.4,00,000/- as compensation for the death of her husband. She deposed that her deceased husband was getting Rs.3,200/- as salary and Rs.500/- per month as batta in total Rs.3,700/-. In fact, the owner also filed counter supporting the claim of claimant with regard to salary paid to his employee. But lower authority has not accepted the same but taken minimum wages as prescribed in G.O.Ms.No.30, dated 27.07.2000 and fixed wages of deceased as Rs.2,587/- and V.D.A. of Rs.588/- totaling to Rs.3,175/- and calculated compensation by taking the age of deceased and relevant factor applicable to the age of deceased and fixed the compensation. So far as wages and relevant factor considered by lower authority, there is no dispute. Only dispute is when claim is for Rs.2,00,000/-, lower authority granted Rs.3,39,721/-, but as the claimant has subsequently amended her prayer by paying

difference court fee, this objection of insurance company cannot be sustained. The other findings are not challenged by insurance company, therefore, the appeal is liable to be dismissed as devoid of merits.

7. Accordingly, the Civil Miscellaneous appeal is dismissed. No costs. Miscellaneous Petitions, if any pending, in this Appeal, shall stand closed.

S. RAVI KUMAR, J

Date: 13-03-2015.

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