

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CMA No.4392 of 2003

-

Date:13.02.2015

Between:

The Singareni Collieries
Company Limited having its
Regd.Office Kothagudem,
Khammam District, rep.by its
Manger, at Mahavir Khan
(MVK)-5, Madaram, Adilabad
District.

..... Appellant.

AND

Durgam Laxmi and others.

....Respondents.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CMA No.4392 of 2003

-

JUDGMENT:

—
This appeal is filed against orders dated 28-07-2003 in
W.C.No.1/1997 of Assistant Commissioner of Labour-I,
Warangal.

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

Respondents 1 to 4 herein filed application before Commissioner for Workmen's Compensation claiming compensation for the death of Durgam Omaji on 18-05-1995. According to the averments of the application, deceased while working in the underground mine, developed chest pain & uneasiness and died in the mine and as he died in the course of his employment of the appellant, they are entitled for compensation. Appellant opposed the claim and contended that the death was due to Cardio Respiratory Failure (heart attack) and it is a natural cause, therefore, there is no liability on the employer. On these allegations, two witnesses are examined and four documents are marked on behalf of the applicants and two witnesses are examined and one document is marked on behalf of opposite party. On a consideration of oral and documentary evidence, the Commissioner for Workmen's Compensation negated the objection of the employer and granted compensation of Rs.1,97,060/- with interest at 6% per annum from 16-06-1995 together with penalty of Rs.39,412/-. Aggrieved by the same, present appeal is preferred.

3. Heard both sides.

4. Advocate for appellant submitted that the order of the Commissioner for Workmen's Compensation is contrary to law & evidence and probabilities of the case. He submitted that the deceased died due to heart attack, which is a natural

death, therefore, it will not come under the purview of Section 3 of the Workmen's Compensation Act and the appellant is not liable to pay any compensation, but the lower Tribunal has wrongly granted compensation.

5. On the other hand, Advocate for claimants i.e., respondents 1 to 4 submitted that the deceased suffered heart attack due to stress & strain of the work and he died in the mine during course of employment and the lower authority has rightly granted compensation and that there are no grounds to interfere with the findings of the lower Tribunal.

6. Now the point that would arise for my consideration in this appeal is whether the order in W.C.No.1/1997, dated 28-07-2003, on the file of Assistant Commissioner for Workmen's Compensation, Warangal is legal, proper and correct?

7. **Point**:-There is no dispute with regard to relationship of employee and employer. It is also not in dispute that the deceased died on 18-05-1995, while working in the underground mine. As seen from the material, the deceased, while working in the underground mine, suffered chest pain and thereafter, died in the mine itself due to heart failure. According to appellant, as the death was natural, the employer has no liability to pay any compensation. Appellant further contended that lower Tribunal, without considering the objections, granted compensation, therefore,

it has to be set aside. The other objection of the appellant is that the lis does not fall within the ambit of Section 3 of Workmen Compensation Act.

8. Admittedly, the deceased was on duty on 18-05-1995 at the time of unfortunate incident. It is also admitted fact that deceased was working in the underground mine, when he got chest pain. One of the colleagues of deceased was examined as W.W.2, whose evidence is supported with the version of the claimants. It is clear from the evidence on record that the deceased did not get any medical help in the mine, when he complained chest pain and uneasiness due to which, he died in the mine itself. It is in the evidence that after reporting chest pain, the deceased had to climb upward to reach the surface. The place of work at the time of chest pain was underground mine and that deteriorated the situation resulting uneasiness and respiratory problem to the employee. The lower authority considered these aspects, while assessing the evidence of both parties and found that the death was during course of employment and the appellant is liable to pay compensation. Though appellant contended that the lis do not fall within the ambit of Section 3 of Workmen's Compensation Act, the same cannot be accepted for the reason that the evidence would clearly show that the deceased was under the course of employment and he died in the underground mine.

9. I have perused the entire material including evidence

produced on behalf of both parties. I do not find any wrong appreciation of evidence or law by the lower Authority. On a scrutiny of the material, I feel that the approach of the lower Authority was on correct lines and it does not suffer from any illegality. I also do not find any incorrect findings or wrong appreciation of any of the facts with reference to the evidence in the order of the lower Authority and that the compensation granted by the lower Authority is on correct lines.

10. For these reasons, I am of the view that there are no grounds to interfere with the orders of the lower Authority and the appeal is liable to be dismissed as devoid of merits.

11. Accordingly, Civil Miscellaneous Appeal is dismissed as devoid of merits. No costs.

12. As a sequel, miscellaneous petitions, if any, pending in this appeal, shall stand dismissed.

JUSTICE S. RAVI KUMAR

Date:13.02.2015

mrh