

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL MISCELLANEOUS APPEAL No.584 of 2005

JUDGMENT:

This civil miscellaneous appeal is filed under Section 30 of the Workmen's Compensation Act, 1923, assailing the order dated 30.9.2004 passed by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Circle II, Guntur, (for short, the Commissioner) in W.C. Case No.38 of 2003, wherein and whereby an amount of Rs.4,21,263/- was awarded as against the claim of Rs.5,00,000/-.

2. The learned counsel for the appellant submitted that the learned Commissioner had wrongly assessed the compensation amount. He further submitted that this Court can rectify the mathematical error committed by the learned Commissioner. ***Per contra***, learned standing counsel for the respondents submitted that the learned Commissioner had correctly assessed the compensation amount. He further submitted that there are no grounds much less valid grounds to interfere with the order passed by the learned Commissioner.

3. Basing on the rival contentions, the point that arises for consideration in this appeal is:

Whether the learned Commissioner had properly assessed the compensation amount or not?

Point:

4. There is no much dispute between the parties with regard to the age of the applicant-appellant by the time of the accident. It is an admitted fact that by the time of the accident, the applicant was working as a mechanic in the respondents-Corporation. As per the recitals of the application, the applicant was aged 34 years and used to earn Rs.6,000/- per month as mechanic. As per the recitals of the disability certificate produced by the applicant himself, his age was 36 years as on the date of the accident. Even assuming, but not admitting,

that the applicant was earning Rs.6,000/- per month, the learned Commissioner has to take the wages of the applicant as Rs.4,000/- in view of Explanation (II) to Section 4(1) of the Workmen's Compensation Act. The applicant is also not disputing the percentage of disability sustained by him. The learned Commissioner has assessed the compensation in the following manner:

$$\text{Rs.4,000} \times 194.64 \times 60/100 \times 90/100 = \text{Rs.4,20,422/-}.$$

It clearly indicates that the learned Commissioner has assessed the compensation amount by strictly adhering to the provisions of the Workmen's Compensation Act. The contention of the learned counsel for the appellant-applicant that the learned Commissioner has not properly assessed the compensation has no legs to stand.

5. In the light of the foregoing discussion, I have no hesitation to hold that the appeal lacks merits and bona fides. Accordingly, the point is answered.

6. In the result, the appeal is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

T.SUNIL CHOWDARY, J

Date: 29.06.2015

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