

HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A.No.177 OF 2006

ORDER:

This appeal is preferred challenging the order of Commissioner for workmen's Compensation And Assistant Commissioner of Labour Circle-II, Guntur, dated 18-01-2006.

The appellant herein made a claim before the Commissioner for Workmen compensation contending that the deceased Bala Yesu was cleaner under 1st respondent herein and he died in a accident on 10-06-2003 near Petruvaripalem, 7 Kms south to Narsaraopet Taluq Police Station on the State Highway. The Tribunal after considering the evidence of Aws1 and 2 and documents Exs.A-1 to A-5 held that deceased Bala Yesu was not the cleaner on the lorry belonging to 1st respondent herein and there is no employee and employer relationship and that the deceased was working in poultry farm run by his father, holding so dismissed the application of the appellant herein and aggrieved by the same, present appeal is preferred.

Advocate for appellant submitted that the lower Tribunal failed to appreciate the evidence on record properly and that deceased was working as cleaner on the lorry of 1st respondent herein and same is clearly deposed by claimant i.e. AW.1 and that the findings of the lower Tribunal were not in accordance with law.

Advocate for R-2 submitted that the evidence on record would clinchingly show that deceased was only an employee in the poultry farm and not a cleaner on the lorry belonging to 1st respondent and as there is no relationship of employee and employer between deceased and 1st respondent, the lower Tribunal rightly dismissed

the claim and that there are no grounds to interfere with the findings of the lower Tribunal.

I have perused the material papers including the impugned order dated 18-01-2006. Driver of the vehicle is examined as AW.2. In the F.I.R deceased was referred as cooli in the Hens farm and same is admitted by driver in his cross-examination. As per the evidence of driver at the time of accident, three coolies were traveling in the lorry who were working in the Hens Farm. Contents of F.I.R. and the evidence of driver would show that the deceased is only a cooli, but not a cleaner working under 1st respondent. Lower Tribunal considering the same held that claimant failed to prove the relationship of employee and employer between deceased and 1st respondent. I do not find any wrong appreciation of evidence by the lower Tribunal. On the other hand, it rightly held that the relationship of employee and employer is not at all established, as such the claimant is not entitled for compensation. I am of the view that lower Tribunal rightly dismissed the claim of the appellant and there are no grounds to interfere with the findings and the appeal is devoid of merits.

Accordingly, the appeal is dismissed.

No costs. Miscellaneous Petitions pending in this appeal, if any, shall stand closed.

S. RAVI KUMAR, J

12-11-2015.

nvl

