

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CMA No.625 of 2005

JUDGMENT:

1 This appeal is filed challenging the award dated 13.11.2003 passed in W.C.No.3 of 2001 on the file of Commissioner for Workmen's Compensation and Assitant Commissioner of Labour, Warangal-I, wherein and whereby the Commissioner awarded an amount of Rs.3,32,055/- as compensation to the claimants.

2 The facts, which are relevant, for disposal of the present appeal are as follows:

3 For the sake of convenience, the parties to this appeal, will hereinafter be referred as they are arrayed before the lower authority.

4 Originally the first petitioner and her in laws filed the W.C.No.3 of 2001 seeking compensation of Rs.3.00 lakhs from the respondents for the death of the husband of the first petitioner by name Bakka Ravi (hereinafter referred to as 'the deceased') who worked as driver on the Jeep bearing no.ADW 3864 on a monthly salary of Rs.3,000/- apart from batta of Rs.50/- per day. The respondent Nos.1 and 2 jointly employed the deceased as driver on their Jeep. On the date of accident, the deceased was proceeding along with the passengers on the said Jeep and when the Jeep reached near Pamunuru village cross roads, it turned turtle. The deceased died due to the injuries sustained by him in the said accident. By the date of accident, the deceased was aged about 22 years. The Jeep bearing No.ADW 3864 was insured with the third respondent – insurance company at the relevant point of time. Hence the petition.

4 The respondent Nos.1 and 2 filed counter denying the material averments made in the claim petition inter *alia* contending that that since the crime vehicle was insured with the third respondent and hence the third respondent alone has to pay compensation to the petitioners and prayed to dismiss the petition against them. The third respondent filed counter opposing the claim petition.

5 During the course of enquiry, on behalf of the petitioners P.Ws.1 and 2 were examined and Exs.A.1 to A.7 were marked. On behalf of the respondents no oral or documentary evidence was adduced.

6 Basing on the material available on record, the Commissioner allowed the petition

by awarding compensation of Rs.3,32,055/- with interest at 6% p.a. from the date of accident till the date of deposit. The Commissioner apportioned the compensation among the petitioners as follows:

Sl.No.	Name of dependant	Relationship	Compensation apportioned	
			Immediate Invested	Relief in F.D
1	Smt. Bakka Aruna	Wife 20 years	80,055-00	80,000 (5 yrs)
2	Bakka Pedda Rajaiah	Father 50 years	47,000-00	20,000 (5 yrs)
3	Bakka Rajamma	Mother 46 years	25,000-00	20,000 (6 yrs)
4	Mas. Bakka Nagaraju	Brother 17 years	---	20,000 (3 yrs)
5	Mas. Bakka Srinivas	Brother 15 years	---	20,000 (6 yrs)
6	Mas. Bakka Naveen	Brother 11 years	---	20,000 (8 yrs)
Total 3,32,055-00				

7 Feeling aggrieved by the award of the Commissioner for Workmens' Compensation in apportioning the compensation among them, the first petitioner who is the wife of the deceased filed the present appeal.

8 Heard Sri A. Prabhakar Rao, the learned counsel for the petitioner and Sri B. Ramulu, the learned counsel for the respondent Nos.1 to 5.

9 Now the question that arises for consideration in this appeal is whether the Commissioner is justified in apportioning the compensation among the dependents?

10 It is an admitted fact that the appellant is wife, respondent Nos.1 and 2 are parents and respondent Nos.3 to 5 are brothers of the deceased. By the date of accident, the respondent Nos.3 to 5 are minors aged about 17, 15 and 11 years respectively. Unfortunately, the appellant lost her husband at the age of 22 years. Strictly speaking, respondent Nos.3 to 5 are not dependents on the income of the deceased. But they are dependents on the income of their father i.e. 1st respondent herein. When compared to respondent Nos.1 to 5, the appellant is more dependent on the income of the deceased. While deciding this type of petitions, the Court has to take into consideration the age, future prospects of the claimants and other attending circumstances. In fact, respondent Nos.3 to 5 did not file any claim petition before the Commissioner stating that they are dependents on the income of the deceased. The respondent Nos.3 to 5 may earn some thing even by attending any other work. But it may not be possible for the appellant to attend all types of works. The Commissioner has not properly considered the future prospects of the claimants. As

rightly pointed out by the learned counsel for the appellant, the Commissioner has misconstrued the provisions of the W.C. Act and awarded more compensation to the respondent Nos.3 to 5. The appellant who is the wife of the deceased was awarded a meagre amount of Rs.1,60,055/-. The Commissioner awarded Rs.67,000/- to the first respondent, Rs.45,000/- to the second respondent and Rs.20,000/- each to the respondent Nos.3 to 5. The Commissioner also permitted the respondent Nos.1 and 2 to withdraw Rs.20,000/- each immediately and directed to keep the remaining amount in fixed deposit.

11 At the stage of admission, this Court granted interim stay of disbursement. A perusal of the record reveals that the parties have not withdrawn the amount in view of the interim stay granted by this Court. Viewed from any angle, awarding of an amount of Rs.20,000/- to each of the respondent Nos.3 to 5 is not justifiable. Keeping in view the future prospects of the appellant and respondent Nos.3 to 5, the earning capacity of the parties and also the provisions of the W.C. Act, I am of the considered view that it is a fit case to interfere with the order of apportionment made by the Commissioner.

12 In the result, the appeal is allowed in part and the amount of compensation is apportioned between the parties herein as follows:

Appellant: Rs.1,90,055/-

First respondent: Rs.67,000/-

Second respondent: Rs.45,000/-

Third respondent: Rs.10,000/-

Fourth respondent: Rs.10,000/-

Fifth respondent: Rs.10,000/-

13 Consequently, miscellaneous petitions if any pending in this miscellaneous appeal shall stand closed. No order as to costs.

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T.SUNIL CHOWDARY, J.

Date: 8th June, 2015.

kvsn

