

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.49 of 2008

JUDGMENT:

This appeal is preferred questioning order dated 31.10.2007 in W.C.No.39 of 2005 on the file of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour-II, Guntur.

2. Appellants herein submitted application under Section 4 of the Workmen Compensation Act before Commissioner for Workmen's Compensation claiming compensation for the death of Shaik Khaja Vali. First appellant is wife, appellant Nos.2 and 3 are children of deceased Shaik Khaja Vali. According to appellants, the deceased was employed as a cleaner on lorry bearing No.AP 7 T 329 belonging to 1st respondent herein and that he died on 29.02.2004 during course of his employment. Insurance Company resisted the claim of appellants and contended that death of the cleaner was natural death and there is no employee and employer relationship between the deceased and 1st respondent and that Insurance Company is not liable to pay any compensation. On these contentions, lower Authority conducted enquiry, during which 1st appellant is examined as AW.1 and got marked Exs.A.1 to A.7. On a consideration of oral and documentary evidence, lower Authority dismissed the claim of appellants against

opposite party No.2 in the petition, but granted compensation of Rs.2,07,974/- against opposite party No.1 in the petition. Now, aggrieved by the same, claimants preferred the present appeal against the dismissal order in respect of opposite party No.2.

3. Heard arguments.

4. Advocate for appellants submitted that the Commissioner ought to have awarded compensation against 2nd respondent also being the insurer and the order of lower Authority is contrary to law. He further submitted that according to appellants the deceased is a spare driver, but the lower Authority failed to consider this aspect.

5. On the other hand, advocate for Insurance Company submitted that appellants have not placed any evidence to show that the vehicle is insured with 2nd respondent and the lower Authority has rightly dismissed the claim and that there are no grounds to interfere with the findings of lower Authority.

6. Now the point that would arise for my consideration in this appeal is

Whether the order in W.C.No.39 of 2005 on the file of Commissioner for Workmen's Compensation-cum-Assistant Commissioner of Labour-II, Guntur, is legal, proper and correct?

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POINT :

7. As seen from the material, 1st appellant, as AW.1 admitted in her evidence that she has not filed any documentary evidence to show that the vehicle is insured with 2nd respondent and that deceased was employed as a cleaner with 1st respondent on a salary of Rs.3,000/-. She also admitted that she do not know how her husband died. She further admitted that her husband never informed about his ill-health prior to the death. As seen from the record and F.I.R., the death was a natural death due to heart-attack. The lower Authority while considering judgments of Apex Court held that there is no material that the heart-attack was due to stress and strain at working place, appellants failed to show that they are entitled for compensation against 2nd respondent.

8. On a scrutiny of the entire material, I do not find any wrong appreciation of evidence by the lower Authority and no substantial question of law is involved in the matter, to be decided by this Court. For these reasons, I am of the view that appeal is devoid of merits and liable to be dismissed.

9. Accordingly, this appeal is dismissed.

10. Miscellaneous petitions pending, if any, shall stand closed. No costs.

S. RAVI KUMAR, J

16th February 2016.

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