

*** HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**
AND
HON'BLE SMT JUSTICE ANIS
+ L.P.A.No.11 OF 2003

% 08-12-2015

The Colliery Manager, Morgan's Pit,
Singareni Collieries Company Limited,
Bellampalli, Adilabad District.

.... Appellant (s)

Vs.

\$ Lingampalli Rajan (died)
and others.

.... Respondent (s)

! Counsel for the petitioner (s) : Sri J. Srinivasa Rao.

Counsel for the Respondent Nos.1 to 4: Sri G. Vidya Sagar.

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> Head Note:

? Cases referred:

Nil.

HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND
HON'BLE SMT JUSTICE ANIS
L.P.A.No.11 OF 2003

J U D G M E N T: *(per Hon'ble Sri Justice Nooty Ramamohana Rao)*

This intra-court appeal under Clause 15 of Letters Patent is preferred against the judgment rendered by a learned Single Judge of this Court in C.M.A.No.686 of 1995.

The Colliery Manager of Singareni Collieries Company is the appellant herein. The first respondent was a workman employed with the said Collieries. While he was working as a Trammer, an industrial accident took place at about 6:00 a.m on 26th July 1987 in an underground mine known as Morgan's pit. A rail tub filled with coal extracted has suddenly fallen off the rails and hit the respondent workman-employee, while he was performing duties. He was very grievously injured resulting in his immediate hospitalization and ultimately, the injury has left a devastating effect on him resulting in his being declared as medically unfit for employment any further in the Collieries. Instead of discharging the employee on such medical unfitness grounds, the Company has preferred to terminate his employment. But, however, his wife has been provided employment on compassionate grounds by the appellant Collieries. That was the silver lining to the darker cloud. The respondent workman has instituted a claim before the Commissioner for Workmen's Compensation, Warangal. Tragically, the Singareni Collieries Company has taken a stand before the said Commissioner that it has spent nearly Rs.40,000/- and odd towards securing medical attention and treatment to the injured workman. Further, they have also taken the plea that a sum of Rs.28,551.50ps was paid during hospitalization period of the workman

treating him to have been on duty. Therefore, these amounts paid i.e., Rs.28,551.50ps and Rs.40,000/- should be kept in view while awarding compensation. These amounts including those, which has been spent by the Company for securing medical aid/attention, has acted very heavily, it looks like, on the mind of the Commissioner of Workmen's Compensation and hence, he has awarded an amount of Rs.2,924/- representing the total amount of compensation payable to the workman.

We really are left wondering as to whether an amount of Rs.2,924/- can ever be considered or described as compensation for an industrial accident, which left the victim with permanent disablement. It is in those circumstances the workman approached this Court. On considering all the factors relevant and also going by the definition of the expression 'total disablement' found in Section 2(l) of the Workmen's Compensation Act, 1923 (for short 'the Act') and based upon the principle enunciated by the Hon'ble Supreme Court in ***Pratap Narain Singh Deo v. Shrinivas Sabata***^[1] and other cases, this Court has arrived at a finding that the disablement suffered by the workman was total and on that basis, he is liable to be compensated.

The workman was drawing his wages @ Rs.1700/- p.m as on the date of the industrial accident. Since the workman is of 50 years age, taking 50% of his wages as Rs.850/- and applying the relevant factor set out in schedule IV of the Act namely 153.09, this Court has no hesitation to approve the finding recorded by the learned Single Judge that the workman is entitled to be paid compensation in a sum of little more than Rs.1,30,000/-. However, since the workman has confined his claim to Rs.1,04,101/-, which is less than the amount of compensation which is otherwise liable to be received by him, this Court has awarded a sum of Rs.1,04,101/- confining it to the claim made by him.

Since the workman has died, his legal representatives are brought on record as the cause survives.

Heard Sri J. Srinivasa Rao, learned counsel for the appellant. Learned counsel for the appellant could not justify as to how the Commissioner of Workmen's Compensation can award a sum of Rs.2,924/- as compensation to a workman, who is drawing a monthly salary of Rs.1700/- for suffering total disablement due to the accident that had taken place at the work place, for which accident, the workman has not contributed anything. If we may say so, awarding compensation of Rs.2,924/- for a total disabled workman, who is drawing Rs.1,700/- p.m, is a sort of perversity on the part of a Hearless Commissioner.

The Act is brought forth for payment of compensation for injury caused by accident arising out of and in the course of employment of workman. Section 3 of the Act created a liability upon every employer to pay compensation in accordance with the provisions contained in Chapter II of the Act for the injury caused to any workman by accident arising out of and in the course of employment. A careful reading of Section 3 discloses that three factors are essentially required, for the liability, to spring up and they are: (1) There should be caused an injury, (2) such injury is the result of an accident and (3) such an accident was the one arising out of and in the course of the employment. Section 4 has attempted to classify the accidents into four broad categories:

(1) Death has resulted from the injury, (2) permanent total disablement results from the injury, like in the present case,

(3) permanent partial disablement is caused due to the injury and (4) temporary disablement, permanent or partial is caused due to the injury.

Section 4 proceeded to lay down compensation payable by prescribing the appropriate formula for each class of injury. The formula to be followed is: an amount equal to 50% of the monthly wages of the injured

multiplied by the relevant factor or Rs.90,000/- whichever is more. This is exactly the formula which the learned single Judge has applied. The proviso under Sub-Section (2) of Section 4 has made it clear that if the workman has received any compensation during the period of disablement, such amount shall be deducted from the lumpsum amount of the compensation payable as per Sub-Section (1) of Section 4 of the Act. Further, the explanation of Sub-Section (2) of Section 4 made it clear that any payment or allowance which the workman has received towards medical treatment shall not be deemed to be payment of compensation. Hence, the claim for deductions made by the Appellant, is clearly contrary to law and hence we see no reason warranting interference with the view taken by the learned single Judge.

In that view of the matter, the order passed by the learned single Judge cannot be described to be erroneous view in any manner. In that context, we see no justifiable reason to entertain this intra-court appeal against an order passed in appeal in turn against the orders of the Workmen's Compensation Commissioner. If at all, any appeals of this nature can be examined only for a substantial and important question of law, but not for the purpose of re-appreciating the evidence on record or upon a mere challenge to the finding of facts recorded by the appellate Court. For sheer absence of material allegations relating to unsustainability of the legal concept behind the judgment rendered by the learned Single Judge, it is construed that no indulgence is called for in this case.

Accordingly, the L.P.A stands dismissed with costs quantified at Rs.10,000/- payable to respondent Nos.2, 3 & 4 by way of crossed account payee cheque drawn on any of the nationalized banks, which shall be deposited with the Registrar (Judicial) along with a sufficiently stamped registered postal cover super-scribing the address of the

second respondent herein thereon.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE ANIS

Date: 08.12.2015

Note:

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[\[1\]](#) AIR 1970 (6) SC 222