

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A No.217 of 2009

Date:17.08.2016

Between:

M/s. Sarda Agro Oils Ltd.
Rep by its managing Director, J.P. Sarda,
Kishan Jung, Hyderabad.

... Appellant.

AND

K. Srinivas Reddy

...Respondent.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

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JUDGMENT:

This appeal is preferred against order dated 24-11-2004 in W.C.No.2/2002 on the file of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Ranga Reddy District.

2. Respondent herein submitted application to the Commissioner for Workmen's Compensation contending that he was working as Operator in Vegetable Oil Refinery Company belonging to appellant herein situated at Satamarai and drawing a salary of Rs.3,500/- per month and that on 10-10-2001, while he was on duty as operator, due to burst of Acid Pipe, which was not maintained well by the company, acid has fallen on his face particularly on his mouth and eyes, due to which, he sustained serious injuries and claimed compensation of Rs.2,00,000/-.

3. Opposite party filed counter resisting the claim of the applicant and contended that applicant is not an employee under them and contended that the applicant had unauthorisedly entered into the factory premises on 10-10-2001 with other workers and on knowing that, the security people asked the applicant to leave the factory premises and they also found some oil packets in the possession of applicant and in the process of sending him back, the applicant fell near the acid pipe and got injured. On these contentions, lower authority conducted enquiry and on a consideration of evidence of both parties, recorded a finding that there is employee and employer relationship between the appellant and respondent and by taking into consideration the age and salary of the injured and by taking the percentage of disability at 30%, fixed compensation of Rs.88,073/- and directed the appellant to deposit said amount together with stamp duty of Rs.176/-. Aggrieved by the said order, employer preferred the present appeal.

4. Heard both sides.

5. Advocate for appellant submitted that the respondent herein is not an employee under the appellant and the lower authority, on a wrong appreciation of material, granted compensation treating the respondent is under the employment of appellant, therefore the order of the lower authority is not legal and proper. He further submitted that the appellant has deposited the compensation amount before filing this appeal and as per the material on record, the respondent herein has received Rs.10,000/- prior to filing of this application and for if any reason, this Court is not inclined to accept the version of the appellant, the amount already received by the respondent prior to filing of this application has to be adjusted from out of the compensation amount.

6. On the other hand, Advocate for claimant submitted that lower authority, on the basis of evidence of both parties, came to the conclusion that respondent herein was an employee under the appellant and a fact recorded on the basis of material evidence cannot be interfered by this

Court. It is further submitted that even the appellant contended that there was an agreement between the appellant and respondent for a sum of Rs.15,000/- and if really he is not an employee, there is no need for the appellant to enter into any such agreement and as the remaining amount is not paid, the respondent was constrained to approach the Commissioner for compensation by invoking the provisions of the Act and that there are no grounds to interfere with the orders of the lower authority.

7. Now the point that would arise for my consideration in this appeal is whether order of the Court below is proper, legal and correct?

8. **Point:-** As seen from the record, the main dispute of the appellant is that there is no employee and employer relationship between the appellant and respondent. The very same point was examined by the lower authority. Though appellant contended that respondent unauthorisedly entered into the factory and sustained injuries in the premises, the evidence on record would disclose that the petitioner was employed in the respondent establishment and he was working since five years prior to the accident. On behalf of the claimant, an eye witness P.W.2 was examined. The security people, who alleged for entry of the respondent into the premises, were not examined and appellant only relied on the evidence of R.W.1 who was manager (purchase) in the establishment and who has no personal knowledge for the alleged entry of the respondent. Considering the same, lower authority disbelieved the objection of the appellant and recorded a finding that respondent was employed in the establishment of appellant. I do not find any wrong in the approach of the lower authority in appreciating evidence on record and I also do not find any material supporting the version of the appellant with regard to the employee and employer relationship.

9. For these reasons, I am of the view that the lower authority rightly accepted the claim of the respondent and granted compensation and there are no grounds to interfere with the findings recorded by the lower

authority with regard to the relationship of employee and employer. Admittedly, respondent herein received a sum of Rs.10,000/- from the appellant herein prior to filing of this application. So as rightly pointed out by Advocate for appellant that Rs.10,000/- has to be adjusted from out of the compensation awarded to the respondent. Therefore, at the time of withdrawing the amount, this Rs.10,000/- has to be withheld and the appellant is entitled to get back this Rs.10,000/- including proportionate interest on this ten thousand from out of the total amount deposited before the Commissioner for Workmen's Compensation.

10. With above observation, appeal is disposed of and as a sequel, miscellaneous petitions, if any, pending in this appeal, shall stand disposed of. No costs.

JUSTICE S. RAVI KUMAR

Date:17.08.2016

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