

HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A.Nos.1387 of 2008 & 129 of 2009

COMMON JUDGMENT:

These two appeals arose out of the same accident and different claimants filed the claim applications before the Commissioner for Workmen's Compensation & Assistant Commissioner of Labour, Kadapa.

2. Separate enquiries were conducted and the lower authority considering the contentions and rival contentions of both parties granted compensation to the claimants treating them as employees of insured.

3. Heard both sides.

4. The main contention of insurance company is that as per the record, owner of the vehicle is one A.Nagi Reddy, but F.I.R contents disclose that the deceased persons were employed by one Vemula Prasad and as per FIR and Charge sheet, the lorry was hired by one Baba Saheb therefore there is no liability on the part of Nagi Reddy. It is the contention of appellant that relationship of employee and employer is not established, but the lower authority without considering this aspect, granted compensation to both the claimants.

5. On the other hand advocate for claimants submitted that claimants have specifically pleaded and stated that they are employed by owner of the vehicle Nagi Reddy and it is not known how the name of Vemula Prasad is referred in FIR, therefore, an opportunity may be given to claimants to clarify this aspect by adducing necessary evidence, as the legislation of workmen's compensation is a beneficial one.

6. For this proposal, advocate for insurance company submitted

that no purpose would be served by remanding the matter and for any reason, the court is inclined to remit back the case, insurance company may be permitted to withdraw the amount lying to the credit of lower authority subject to the result of main case.

7. I have perused the material papers including the pleadings and evidence of both parties. As rightly pointed out by advocate for claimants, there is some ambiguity with regard to person, who employed these deceased persons, one version is given in the FIR and one version is given in the charge sheet and third version is from claimants. As the claimants have to clarify that ambiguity, I feel that an opportunity be given to them to adduce further evidence, and if any such evidence is adduced, insurance company is at liberty to rebut the same by examining necessary witnesses.

8. For above reasons, both the impugned orders in W.C.Nos.114 of 2003 and 115 of 2003 dated 16.06.2008 are set aside and the matters are remitted back to the lower authority for disposal as observed above and insurance company is permitted to withdraw the amount lying to the credit of these cases and the lower authority shall dispose of these matters, as expeditiously, as possible, by giving opportunity to both parties to lead evidence, if required.

9. Accordingly, these two Civil Miscellaneous Appeals are disposed of. No costs. Miscellaneous Petitions, pending in these appeals, if any, shall stand closed.

S. RAVI KUMAR, J

Date: 30-06-2016.

gvl