

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.720 of 2004

JUDGMENT:

This appeal is preferred against order dated 29.11.2003 in W.C.No.70 of 2000 on the file of Commissioner for Women's Compensation & Assistant Commissioner of Labour, Warangal-II.

2. Respondents herein filed application under Section 22 of Workmen's Compensation Act before Commissioner for Workmen's Compensation & Assistant Commissioner of Labour, Warangal-II (for short "lower authority") contending that one Odelu (hereinafter referred to as "the deceased") was working as a Coal Filler in the appellant-company and that on 29.07.1998, the deceased went inside the mine at about 11.00 p.m., to attend his daily work in the 3rd shift and that the deceased along with co-workers by name Laudiya Bhukya was carrying basket to fill the coal in the tubs and that at about 4.00 a.m., on 30.07.1998, the deceased suddenly fell down from the steps and collapsed on the spot and that co-workers immediately informed the same to mines Superintendent on duty, who inturn took the said employee to Area hospital where the doctor has declared his death. Respondents herein claimed a sum of Rs.1,69,440/- as compensation under the provisions of Workmen's Compensation Act, 1923 (for short "W.C. Act") and the lower authority on a scrutiny of the entire material on record and considering the contentions and rival contentions of both parties allowed the claim of respondents herein and awarded compensation of Rs.1,69,440/- under Section 4 of the W.C. Act. Now aggrieved by the said order, appellant preferred the present appeal.

3. Heard both sides.

4. Learned advocate for appellant submitted that lower authority failed to notice that the deceased had not met with any accident while on duty and that appellant is not liable to pay compensation. He further submitted that there is no nexus between death of employee with his employment, as such appellant is not liable to pay any compensation.

5. On the other hand advocate for respondents submitted that the lower authority has considered each and every objection raised by the employer and rightly negated those objections and granted compensation and that there are no grounds to interfere with the findings of the lower authority. It is represented that appeal against R-5 one of the claimants was already dismissed on 02.09.2011 and award has become final so far as that claimant is concerned.

6. Now the point that would arise for my consideration is:

Whether the Award of the Commissioner for Workmen's Compensation & Assistant Commissioner of Labour-II, Warangal is legal, proper and correct?

POINT:

7. There is no dispute with regard to relationship of employee and employer between deceased and appellant. Appellant herein filed petition to condone delay in filing petition to set aside default order dated 02.09.2011 is dismissed on merits. Admittedly the deceased Odelu was working as Coal Filler in the appellant's company and on the fateful day he was under the 3rd shift, who reported to duty at about 11.00 p.m. on 29.07.1998 and the said employee while attending to his routine duties during early hours of 30.07.1998 fell inside the mine and he was shifted to

hospital, where he was declared dead and the lower authority considering the documents Exs.A5 and A8 held that there was head injury to the deceased which resulted in his death. It also held that the deceased was attending to his normal work at the time of incident.

8. From the material on record, it is very clear that the deceased was under the employment at the time of incident, therefore, lower authority has rightly granted compensation. As seen from the material on record, there is absolutely no substantial question of law involved in this matter to be considered by this Court in the appeal.

9. For these reasons, I am of the view that there are no grounds to interfere with the findings of the lower authority and that appeal is devoid of merits.

10. Accordingly the Civil Miscellaneous Appeal is dismissed. No costs. Miscellaneous Petitions, if any pending, in this Appeal, shall stand closed.

S. RAVI KUMAR, J

Date: 27-01-2016.

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