

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.641 of 2005

-

JUDGMENT :

This appeal is preferred challenging order dated 30.12.2004 in W.C.No.19 of 2001 on the file of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Eluru.

2. Respondent Nos.1 to 3 herein submitted an application to Commissioner for Workmen's Compensation, Eluru, claiming Rs.2,50,000/- as compensation for the death of Hanumantha Rao contending that the deceased was driver on tractor and trailer bearing Nos.AP 15 U 2291 and AP 16 X 4521 belonging to 4th respondent herein and that on 01.05.2001 while the deceased was returning from Mango garden, at 2.30 p.m. he died during course of employment and that claimants being daughter and sons of the deceased are entitled for compensation of Rs.2,50,000/-.

3. The claim is resisted by the Insurance Company on the ground that 1st claimant is a married woman and she cannot be treated as dependant and so also the other claimants, who are major sons of the deceased, as such, they are not entitled for compensation. The lower Authority on a consideration of material negated the contention of the Insurance Company and granted Rs.1,64,976/- as compensation as against the claim of Rs.2,50,000/-. Now, aggrieved by the same, Insurance Company preferred the present appeal.

4. Heard arguments.

5. Advocate for appellant submitted that lower Authority failed to see that there is no statutory and contractual liability on the insurer to pay any compensation. He further submitted that lower Authority failed to conduct dependency enquiry separately and that the award of the lower Authority is not legal.

6. On the other hand, advocate for claimants submitted that lower Authority rightly negated the contention of the Insurance Company and with regard to the distribution of compensation, dependency enquiry is contemplated under Section 8 of the Workmen Compensation Act that the Insurance Company cannot disown its liability to pay compensation.

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

Whether there are any grounds to interfere with the award dated 30.12.2014 in W.C.No.19 of 2001 on the file of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Eluru?

-

POINT :

8. There is no dispute with regard to relationship of employee and employer between the deceased and 4th respondent. The main objection of appellant is that claimants, being not dependents, are not entitled to any compensation. The very same objection is raised before lower Authority and the lower Authority on a consideration of the provisions of Workmen Compensation Act, held that the objection of the Insurance Company is not tenable. Here, compensation has to be paid for the death of the deceased as he died while in service and how that compensation has to be distributed among the legal heirs of the deceased is contemplated under Section 8 of the Workmen Compensation Act. As rightly pointed out by advocate for claimants, only for distribution of compensation among the legal heirs dependency enquiry under Section 8 of the Act is contemplated, therefore, the objection of the Insurance Company with regard to its liability is not at all tenable. On a scrutiny of the material on record, I am of the view that the objection raised by the Insurance Company is not tenable and lower Authority has rightly granted compensation and that there are no grounds to interfere with the same.

9. For these reasons, the appeal is dismissed as devoid of merits. No

costs.

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

S. RAVI KUMAR, J

29th January 2016

mar