

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A No.1188 of 2008

Date:03.08.2016

Between:

Sri Jayanthi Ravi Babu

...Appellant.

AND

Sri Duvuri Gopalakrishna and another.

...Respondents.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A No.1188 of 2008

JUDGMENT:

This appeal is preferred against order dated 20-05-2006 in W.C.No.57/2004 on the file of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Vijayawada.

2. First respondent herein submitted application to Commissioner for Workmen's Compensation contending that he was working as driver on auto-rikshaw bearing No.AP 16X 2384 under appellant herein on a monthly salary of Rs.3,000/- besides daily batta of Rs.20/- and that on 30-04-2004, at about 11:00 A.M., while he was discharging duties as driver on the said auto-rikshaw, the load of glasses, which he was transporting in the said auto-rikshaw from the shop of M/s. Sai Ram Ply Woods, suddenly fell down from auto on

his left hand and as a result, he sustained grievous injuries on his left hand and lacerated injury of 5 Cms in outer surface of wrist.

He further contended that on account of the said injuries, he is deprived of his livelihood and career and that he is entitled for compensation of Rs.2,00,000/-.

3. As seen from the record, the appellant herein has not filed any counter and only Insurance Company filed counter disputing the claim and contended that the accident was not reported to Insurance Company and the vehicle is not insured with second respondent herein i.e., Insurance Company at the time of accident and that there is no liability for the Insurance Company. On these contentions, lower authority conducted enquiry and on a consideration of oral and documentary evidence, granted compensation of Rs.78,191/- as against the claim of Rs.2,00,000/-. Now aggrieved by the same, owner preferred the present appeal.

4. As per the grounds, contention of the appellant is that the lower authority adopted erroneous procedure and granted compensation without considering the oral and documentary evidence. It is further contended that lower authority has fixed the compensation without there being any material as to the percentage of disability.

5. Heard arguments.

6. As seen from the record, on behalf of the claimant, two witnesses were examined and seven documents were marked and out of the two witnesses, first witness is claimant himself and second witness is the medical officer. One of the contentions of the appellant is that there is no F.I.R., for the alleged incident, but from evidence, it is clear that the injured reported the incident to S.H.O., Law & Order, Governorpet, Vijayawada who made Beat Dairy Entry on 30-04-2004,

at about 11:00 P.M., and the same was marked as Ex.A1. The accident was intimated to the police and the intimation of accident and injuries to police was marked as Ex.A3. The Medical Officer who treated the injured was examined as A.W.2 and the discharge summary was marked as Ex.A2. From these documents, it is clear that first respondent herein sustained injuries during course of his employment on 30-04-2004 at about 11:00 A.M. There is no evidence on behalf of Insurance Company or the appellant and even the appellant has not filed any counter disputing the claim and even the witnesses were also not cross-examined on his behalf, therefore, the objection of the appellant that the lower authority has not properly considered the oral and documentary evidence, is not at all tenable and there are absolutely no grounds to interfere with the order of the lower authority.

7. On a scrutiny of the material, I am of the view that the appeal is liable to be dismissed as devoid of merits.

8. For these reasons, appeal is dismissed as devoid of merits and as a sequel, miscellanies petitions, if any, pending in this appeal shall stand dismissed. No costs.

JUSTICE S. RAVI KUMAR

Date:03.08.2016

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