

**HON'BLE SRI JUSTICE S. RAVI KUMAR**

**CIVIL MISCELLANEOUS APPEAL No.1107 of 2008**

**JUDGMENT:**

This appeal is preferred questioning order dated 07.06.2006 in W.C.No.4 of 2005 on the file of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Karimnagar.

2. Respondent herein submitted application to the Commissioner for Workmen's Compensation (for short "lower authority") contending that her husband T. Thirupathi was a coal filler at Goleti-1 incline in M/s.Singareni Collieries Company Limited, Bellampalli, and that on 08.01.2003, he commenced the work at 11.00 p.m. and worked along with other coal fillers upto 6.00 a.m. on 09.01.2003 and died due to suffocation as there was no proper air supply at the work place and that applicant is entitled for compensation of Rs.4,15,000/-. Appellant herein admitted the relationship of employee and employer but denied the liability of payment of compensation and contended that deceased after filling up 15 tubs of coal, six coal fillers left work spot and the remaining four coal fillers took two more empty tubs and started filling them and deceased was among those four coal fillers and that at about 6.30 a.m. the deceased informed the co-worker that he was not feeling well and that he was going out to drink water and in the meantime two other coal fillers also went out to drink water and the deceased who was sitting at the water point requested them to provide water and after consuming water he collapsed and where he was found unconscious and that after giving first aid, he was

sent to surface but on the way the deceased died at about 8.15 am. Appellant contended that as per Postmortem certificate, death was due to suffocation due to asphyxiation and no poisonous substances were found in the viscera, therefore, appellant is not liable to pay any compensation. It is further contended that the Mines Manager, Safety Officer and Ventilation Officer along with union delegates had inspected the work spot and took the samples of air and temperature reading and sent to laboratory and it was found that temperature at LVC was 26.5 C and quantity of air flowing at LVC i.e. 21 R/39L was 674 cubic meters per minute and the percentage of oxygen at 39L/ 23 Dip was 20.30% and therefore the death of deceased was not caused due to any mine accident and it was natural death, therefore no compensation need be paid.

3. On these contentions, lower authority conducted enquiry, during which, three witnesses are examined and 5 documents are marked on behalf of claimant, whereas four witnesses are examined and 6 documents are marked on behalf of appellant, and on a over all consideration of oral and documentary evidence, lower authority has not accepted the objection of appellant and granted compensation of Rs.4,11,900/- by taking the earnings of deceased at Rs.8,000/- per month. Now aggrieved by the same, Singareni Collieries preferred the present appeal.

4. Heard arguments.

5. Advocate for appellant submitted that lower authority failed to appreciate the fact that coal filler who worked in the same place did not suffer any suffocation and that the death of deceased was due to his ill health and the appellant is no way connected with the death. He further submitted that as per the inspection of

the Mine Safety Officer and other officials, there was sufficient oxygen at the work spot, and therefore, the suffocation is not due to the lapses of the management, and the lower authority erred in granting compensation.

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

***Whether the order of the Commissioner for Workmen's Compensation & Assistant Commissioner of Labour, Karimnagar is legal, proper and correct?***

**POINT:**

7. I have perused the material papers including the oral and documentary evidence of both parties. Admittedly, the deceased was on duty at the time of his death. As seen from the evidence, the deceased appears to have complained that he was not feeling well and he wants to go out to drink water and after consuming water he collapsed and he was found unconscious and though he immediately given first aid and sent to company Area Hospital, he could not be saved. Wife of the deceased is examined as PW.1 and one of the coal filler worked along with the deceased is examined as PW.2, Medical officer was examined as PW.3 and their evidences were considered by the lower authority, from which, it is clear that the deceased died during course of his employment. Lower authority considered the evidence of both parties and recorded the finding that the deceased died during course of his employment and incident falls within Section 3 of the Workmen's Compensation Act and granted compensation. I do not find any wrong in the approach of lower authority nor there any illegality in granting compensation.

8. There is absolutely no material to support the contention

of appellant that the deceased did not suffer any suffocation. The main ground urged on behalf of appellant is that as the other coal fillers did not suffer any suffocation, the claim of the deceased that he died due to suffocation cannot be accepted. But the contention of appellant is not tenable because feeling suffocation may differ from person to person and one cannot take a common view with regard to suffocation and the fact remains from postmortem certificate that the death was due to suffocation and when the incident was during course of his employment, the objection of appellant is not tenable.

9. For these reasons, I am of the view that there are no merits in the appeal and the same is liable to be dismissed.

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

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**S. RAVI KUMAR, J**

Date: 01-06-2016.  
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