

THE HON'BLE SRI JUSTICE S.RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.1559 of 2008

JUDGMENT:

This appeal is preferred against order dated 27.09.1996 in W.C.No.29 of 1996 on the file of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Mahabubnagar.

2. Respondent Nos.1 to 5 herein submitted application to the Commissioner for Workmen's Compensation contending that the deceased Mohd. Moula was working under 6th respondent herein on lorry bearing No.AET.1988; and that the said Mohd. Moula died during course of his employment and they are entitled for compensation of Rs.1,00,000/-. The application was resisted disputing the claim on the ground that there is no employer and employee relationship between the deceased and the 6th respondent herein. The lower authority conducted enquiry and on a consideration of evidence placed before it held that the claimants are entitled for compensation of Rs.1,20,286/- including stamp duty and questioning the same, insurance company preferred the present appeal.

3. As seen from the record, the appeal against respondent Nos.1, 3, 4, 5 and 6 was dismissed for non compliance of the orders of this Court and now appeal is only against respondent No.2 only. Though there are five claimants, appeal is dismissed against four claimants and no steps are taken till now.

4. Heard Advocate for the appellant.

5. As seen from the grounds, the main objection of the

insurance company is that when the claim was only for Rs.1,00,000/-, the Commissioner erred in granting Rs.1,20,286/- as compensation. But, it is settled law that even though the claim is less, if the Tribunal or the authority arrived at the conclusion that the claimants are entitled for more than what they claimed, the Tribunal or the authority is empowered to grant such compensation. As seen from the impugned order, the lower authority by taking the minimum wages as per G.O.Ms.No.71, Women Development and Child Welfare and Labour (Lab.II) Department, dated 16.04.1991, calculated the compensation, which was arrived at Rs.1,18,048/-. In addition to that a sum of Rs.2,000/- was awarded as Advocate fee and a sum of Rs.238/- was awarded as stamp duty, in total a sum of Rs.1,20,286/- was awarded towards compensation. Therefore, I do not find any wrong in the order of the lower authority, particularly, when the claimants are entitled for more compensation as per minimum wages. There is nothing wrong in granting more compensation than what they claimed. Even otherwise, when the appeal is dismissed against some of the claimants, appellant cannot be permitted to object for the quantum in respect of one claimant. For these reasons, I am of the view that the appeal is devoid of merit and is liable to be dismissed.

6. Accordingly, the Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

S. RAVI KUMAR, J

JUNE 16, 2016

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Date: 16.06.2016

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