

HONOURABLE SRI JUSTICE S.RAVI KUMAR
CMA.No.41 OF 2008

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ORDER:

_____ This appeal is preferred questioning order dated 16th June, 2004 in W.C.No.6 of 2003 on the file of Commissioner for the Workmen's Compensation and Assistant Commissioner of Labour, Patancheru, Medak District.

2. _____ Respondents 1 to 4 submitted application to Commissioner for Workmen's Compensation contending that deceased Mallesham was engaged as labourer on lorry bearing No. AP 11U 1557 belonging to 5th respondent herein and on 11.10.2002 at about 11.00 AM said lorry was involved in accident due to rash and negligent driving of the driver, due to which the deceased died. They contended that the deceased was earning Rs.3,000/- per month as labourer and as she died during the course of employment therefore, they are entitled for compensation of Rs.3,00,000/-.

3. _____ Insurance Company resisted the claim and lower authority conducted enquiry, during which, two witnesses are examined and four documents are marked on behalf of claimants. One witness is examined on behalf of Insurance Company. One witness is examined on behalf of 5th respondent/owner and four documents are marked on behalf of owner and insurance company.

4. _____ On a overall consideration of oral and documentary evidence, lower authority granted compensation of Rs.3,49,297/- by taking minimum wages of the deceased at Rs.3,427/-. Aggrieved by the said order, insurance company preferred the present

appeal.

5. Heard arguments.

6. Advocate for appellant submitted that the owner of the lorry was examined as RW1. He deposed in his evidence that he was paying only Rs.60/- per day to the deceased as wages, but, the lower authority took minimum wages and fixed the compensation. He submitted when RW1 himself stated that he is paying Rs.60/- per day only, insurance company cannot be made liable to pay compensation calculated on the minimum wages and the liability with regard to the difference amount has to be fixed only on the owner and to that extent the award has to be modified. He further submitted that though the insurance company contended that policy is not covering the risk, as additional premium is paid, insurance company is not pressing that ground.

7. On the other hand, advocate for respondents submitted that lower authority rightly took the minimum wages into consideration and the evidence of the owner cannot be accepted since he is not expected to pay less than the wages fixed by the Government, therefore, there are no grounds to interfere with the order of the lower authority.

8. Now the point that arises for consideration is:

Whether the order dated 16.06.2004 in W.C.No.6 of 2003 on the file of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Patancheru, Medak District is legal, proper and correct?

POINT:

9. There is no dispute with regard to the death of deceased Malleshham. There is also no dispute with

regard to the relationship of employee and employer between deceased and 5th respondent herein. The only objection of the insurance company is that wages as taken by the lower authority under the Minimum Wages Act cannot be applied to the insurance company in view of the fact that owner categorically stated in his evidence that he is only paying Rs.60/- per day. According to the insurance company, the compensation has to be calculated by taking the wages at Rs.60/- per day and the difference of the compensation has to be borne by owner and not by the insurance company. As rightly pointed by the advocate for claimant, owner is bound to pay minimum wages, simply because he stated that he is paying less than minimum wages that cannot be accepted. If the minimum wages are not paid, it is a crime against the owner, therefore, the objection of the insurance company that liability has to be reduced by taking the wages at Rs.60/- per day, cannot be accepted. As seen from the record, the minimum wages fixed for the labourer as per G.O.Ms.No.30, LET & F (Lab II), dated 27.07.2000 was taken for the purpose of calculating the compensation and that cannot be held as illegal, simply because, the owner stated that he was only paying Rs.60/- per day.

10. For these reasons, I am of the view that the objection of the insurance company is not tenable. The lower authority has rightly calculated the compensation and I do not find any grounds to interfere with the finding recorded by the lower authority and the quantum of compensation.

11. Therefore, the appeal is dismissed. There shall be no order as to costs.

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Dated: 16-06-2016.
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DATED: 16.06.2016

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