

HONOURABLE SRI JUSTICE S.RAVI KUMAR
CIVIL MISCELLANEOUS APPEAL No.1111 of 2008

Dated 1-4-2016

Between:

Karasala Nagamma.

..Appellant.

And:

V.V.Surendra Kumar and others.

..Respondents.

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CIVIL MISCELLANEOUS APPEAL No.1111 of 2008

JUDGMENT:

This appeal is preferred questioning order dated 10-8-2004 in W.C.No.18 of 2001 in favour of two persons i.e., K.Venkata Ratnamma and K.Nagamma.

Aggrieved by the apportionment, Nagamma claiming as wife of deceased employee filed present appeal contending that apportionment is not as per the meaning of 'dependent' as defined in Section 2(1)(d) of Workmen's Compensation Act, 1923 and that the mother i.e., Venkata Ratnamma is not entitled for any apportionment and Commissioner for Workmen's Compensation erred in giving apportionment to the mother of the deceased also.

On the other hand, advocate for respondents submitted that before making this apportionment, enquiry was conducted and said enquiry report is dated 24-6-2003, in which the statement of appellant is also recorded and as per the enquiry report, the appellant herein left the deceased Karasala Venkateswarlu about

23 years prior to his death and again married and in the Election Card issued by Election Commission of India, husbands name of the appellant is recorded as Raghavayya but in spite of that, apportionment is made and compensation is also given to some extent to the

appellant and therefore, the objection of the appellant with regard to apportionment is not tenable.

I have perused award dated 13-6-2002 in W.C.No.18 of 2001. The claim was made only by the parents of the deceased and the appellant herein was nowhere in the picture in the proceedings i.e., W.C.No.18 of 2001. Only after passing the award, appellant herein approached the Commissioner for Workmen's Compensation for apportionment and on that, enquiry was conducted thereafter apportionment was made. The Enquiry report dated 24-6-2003 would disclose that the Labour Officer, Ongole, has recorded the statement of parents of the deceased and two witnesses by name M.Bala Kistayya and K.G.Babu and also the statement of appellant herein.

It is revealed during enquiry that the deceased married appellant herein and thereafter, divorced about 23 years prior to his death and the deceased again married another woman by name M.Atchamma and the said Atchamma predeceased the employee and in the statement of appellant, it is noticed that in the voters card issued in favour of the appellant one Raghavayya was shown as husband of appellant, basing on that Labour Officer recorded a finding that the appellant herein is not the wife of deceased Venkateswarlu. Admittedly, Enquiry Report is not challenged by the appellant but in spite of that, at the time of apportionment, some money is granted to the appellant without satisfying that she has challenged that order, questioning apportionment made to mother of the deceased.

On a scrutiny of record, I am of the view that claim of appellant herein is absolutely not tenable and the Commissioner for Workmen's Compensation, liberally granted some money to appellant through she is not the wife of deceased employee as on the death of employee and that was not questioned by mother of the deceased

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Dvs