

THE HONOURABLE SRI JUSTICE S. RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.1536 OF 2008

JUDGMENT:

This appeal is preferred against order dated 18.09.2007 in W.C.No.11 of 2005 on the file of the Commissioner for Workmen's Compensation-cum-Assistant Commissioner of Labour, Kurnool.

2. Respondents 1 and 2 herein submitted application before the Commissioner of Workmen's Compensation contending that Mohd.Nizamuddin was a driver on lorry bearing No.AP 92 8341 and he died during course of his employment. According to claimants, on 22.06.2003 at about 4:40 P.M., deceased got mixed cement and concrete in vehicle bearing No.AP 92W 18341 and proceeded from camp Damavaram towards Naidupalem cross roads where works were going on for unloading the material and after unloading while he was going back after crossing over bridge, all of a sudden stopped the vehicle and asked for water and after consuming water, he fell on the steering and Nandamuri Balakrishna, Bakkasim and others erected him, but there was no response from the deceased. Thereafter, he was taken to Company Doctor, who declared him dead. They claimed a compensation of Rs.2,50,000/-.

3. Insurance Company resisted the claim and stated that death of deceased was not due to stress and strain of his employment and there was no liability on the part of the Insurance Company.

4. On these contentions, lower authority conducted enquiry and on a consideration of oral and documentary evidence of both parties, granted compensation of Rs.1,78,618/- and aggrieved by the same, Insurance Company preferred this appeal.

5. Heard both sides.

6. Advocate for appellant mainly submitted that as per Post Mortem report, death of deceased was due to heart attack, which is a natural death and relied on the judgment of this Court in **Divisional Manager, New India Assurance Company Limited v. Alahari Varalaxmi and others**^[1], wherein this Court observed that when there was no evidence to show that death was due to stress and strain on account of driving, natural death of heart attack cannot be connected to the employment. He further submitted that Hon'ble Supreme Court in **Dredging Corporation of India Limited v. P.K. Bhattacharjee**^[2] in a similar set of facts by referring to earlier judgments remitted back the case to lower authority to examine the question as to whether heart ailment is a consequence of any stress or strain of employment.

7. Advocate for claimants submitted that in case of remand, some time schedule may be fixed as the claim is very old and the claimants are deprived of compensation.

8. I have perused the material papers including the judgments relied on by the Insurance Company.

9. On a scrutiny of the material, I am of the view that by following **Dredging Corporation** (2 supra), I feel that it is a fit case to remit back the matter to lower authority to enable the lower authority to examine whether death of deceased was due to stress and strain on account of driving. However, since the incident is of the year 2005, I feel that lower authority has to be directed to dispose of the matter within a time frame.

10. For these reasons, the impugned order dated 18.09.2007 is set aside and the matter is remitted back to lower authority i.e., the Commissioner for Workmen's Compensation-cum-Assistant Commissioner of Labour, Kurnool, for examining the matter in the light

of decision of this Court and the decisions of the Supreme Court in **Dredging Corporation** (2 supra) and **Param Pal Singh v. National Insurance Company and another**^[3] and decide the same in accordance with law within a period of four (4) months from the date of receipt of a copy of this order.

11. The Civil Miscellaneous Appeal is accordingly allowed. There shall be no order as to costs.

As a sequel to the disposal of this appeal, miscellaneous petitions, if any, pending shall stand dismissed.

S. RAVI KUMAR, J

Date:26.07.2016
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^[1] 2011 ACJ 1306

^[2] 2013 ACJ 2638

^[3] (2013) 3 SCC 409