

HONOURABLE SRI JUSTICE S.RAVI KUMAR
CIVIL MISCELLANEOUS APPEAL No.207 OF
2009

Dated 21st April, 2016

Between:

United India Insurance Co.Ltd., represented
by the Branch Manager, Branch Office, Suryapet,
Nalgonda District.

..Appellant.

And:

Ramisetti Venkaiah and others.

..Respondents.

-
-

HONOURABLE SRI JUSTICE S.RAVI KUMAR
CIVIL MISCELLANEOUS APPEAL No.207 OF
2009

JUDGMENT:

This appeal is preferred questioning order dated 29-10-08 in W.C.No.67 of 2005 on the file of Commissioner for Workmen's Compensation and Deputy Commissioner of Labour, Nalgonda .

Respondents 1 and 2 submitted application to Commissioner for Workmen's Compensation contending that deceased Narasimharao was their son who was working as driver on lorry bearing No.AP 24 V 2300 belonging to 3rd respondent herein and that he died during course of his employment on 26-6-2004 and that they are entitled for compensation of Rs.4,00,000/-.

Insurance Company resisted the claim of respondents 1 and 2 herein on the ground that the accident was not during the course of employment and death was due to negligence of deceased himself. It is further submitted that there is no

valid driving licence to drive heavy vehicle as on the date of death and therefore, Insurance Company is not liable to pay any compensation.

On these contentions, lower authority conducted enquiry, during which two witnesses are examined and five documents are marked on behalf of claimants. No witness is examined but one document is marked on behalf of Insurance Company. On an overall consideration of oral and documentary evidence, lower authority granted Rs.3,99,648/- as compensation as against the claim of Rs.4,00,000/- taking the wages of the deceased at Rs.3,773/- per month and aggrieved by the said order, Insurance Company preferred the present appeal.

Claimants-respondents in spite of service of notice neither appeared in person nor through any advocate.

Heard arguments.

Advocate for Insurance Company submitted that the deceased died due to electrocution and it is on his own negligence and there is no nexus between employment and death, and therefore, Insurance Company is not liable. He further submitted that incident was not during the course of employment and there is no liability for the Insurance Company to pay any compensation. He further submitted that as per endorsement obtained from transport department, deceased was having driving licence only for light motor vehicles and he cannot drive heavy vehicle that too non-transport vehicle and therefore, for want of effective driving licence, Insurance company is not liable to pay any compensation.

Now the point that would arise for my consideration in this appeal is whether the order of the Deputy Commissioner of Labour, is legal,

correct and proper?

POINT:

It is the specific case of claimant that on 26-6-2004, deceased travelled on lorry bearing No.AP 24 V 2300 went to Jaggayyapeta for loading of coal and according to them, deceased after parking lorry between two tracks climbed the wagon and he came into contact with Live Electric Wire and received serious burn injuries and died at Government University General Hospital, Vijayawada while undergoing treatment.

Learned advocate for Insurance Company submitted that there is no nexus between employment and the incident and therefore, there is no liability for the Insurance Company.

Here the fact remains that deceased was on duty at the relevant point of time and the death occurred only during the course of employment. Evidence on record would clearly disclose that the deceased as driver on lorry bearing No. AP 24 V 2300 went to Jaggayyapet for loading purpose and he kept lorry for loading and claimed wagon to see the loading of the coal, but unfortunately came into contact to a Live Electric Wire, on account of which, he sustained injuries and succumbed to the injuries. Therefore, it is clear that unfortunate incident was only during course of employment and not out of employment period. Therefore, objection of the Insurance Company cannot be sustained.

The other contention of Insurance Company is that there is no effective driving licence for the deceased to drive heavy vehicle. On behalf of claimants, the original driving licence of the deceased is marked as Ex.A.5 and no witnesses are examined on behalf of Insurance Company nor any

documents are produced to rebut the driving licence Ex.A.5.

As seen from Ex.A.5, original driving licence was issued for driving of light motor vehicles and it was issued on 17-3-1999 but subsequently, in August, 2002, an endorsement is made on the driving licence authorizing the deceased to drive heavy goods vehicle, heavy passenger vehicle etc., by the Additional Licencing Authority, Nalgonda.

Now the learned counsel for the Insurance Company referring to document filed along with appeal which is a Xerox copy of endorsement obtained from transport department, contended that driving licence is only for light motor vehicle and therefore, Ex.A.5 driving licence cannot be accepted. But this document is not brought on record during course of enquiry and it is filed for the first time along with this appeal even otherwise, this document would only show that as on 17-3-1999 the deceased was authorized to drive only light motor vehicle even as per Ex.A.5 driving licence as on 17-3-1999, deceased was having only licence for light motor vehicle and he got endorsement in August, 2002 to drive heavy vehicle also, therefore, this objection of the Insurance Company also cannot be sustained.

On a scrutiny of the material, I am of the view that lower authority has not committed any error in granting compensation and that there are no grounds to interfere with the findings of the lower authority.

For these reasons, appeal is dismissed. No costs.

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

JUSTICE
S.RAVI KUMAR

Dated 21st April, 2016.
Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

CIVIL MISCELLANEOUS APPEAL No.207 OF
2009

Dated 21st April, 2016

Dvs