

HONOURABLE SRI JUSTICE S.RAVI KUMAR
C.M.A.Nos.2242 of 2002, 457 of 2003, 3081 of 2003
&
3094 of 2003
Dated 8-7-2016

C.M.A.No.2242 of 2002.

Between:

_____ The Regional Manager, United India Insurance
Company Limited, Regional Office, Basheerbagh,
Hyderabad.

_____..Petitioner.

And:

_____ M/s.Ganesh Dall Mill, represented by its Proprietor,
Bangarigadda, Miryalguda, Nalgonda District and others.

_____..Respondents.

C.M.A.No.457 of 2003.

Between:

_____ The Regional Manager, United India Insurance
Company Limited, Regional Office, Basheerbagh,
Hyderabad.

_____..Petitioner.

And:

_____ M/s.Ganesh Dall Mill, represented by its Proprietor,
Bangarigadda, Miryalguda, Nalgonda District and another.

_____..Respondents.

C.M.A.No. 3081 of 2003

Between:

United India Insurance Company Limited, represented by its
Regional Manager, Regional Office, Basheerbagh,
Hyderabad.

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_____..Petitioner.

And:

_____ Nunna Shekar and another.

_____..Respondents.

C.M.A.No. 3094 of 2003

Between:

United India Insurance Company Limited, represented by its
Regional Manager, Regional Office, Basheerbagh,
Hyderabad.

_____..Petitioner.
And:
_____Jaini Ramesh and another.
_____..Respondent.

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COMMON JUDGMENT:

All these appeals arise out of the same incident and the point involved is also the same and therefore, all these appeals are disposed of by way of common Judgment.

C.M.A.No.2242 of 2002 is preferred against order dated 19-10-2001 in W.C.No.29 of 2000 on the file of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Nalgonda.

C.M.A.No.457 of 2003 is preferred against order dated 28-11-2001 in W.C.No.28 of 2000 on the file of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Nalgonda.

C.M.A.No.3081 of 2003 is preferred against order dated 26-6-2003 in W.C.No.293 of 1996 on the file of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Nalgonda.

C.M.A.No.3094 of 2003 is preferred against order dated 26-6-2003 in W.C.No.294 of 1996 on the file of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Nalgonda.

Except claimants in C.M.A.No.2242 of 2002 in all other appeals, claimants are injured persons. Claimants in C.M.A.No.2242 of 2002 are the legal representatives of the deceased person.

Claimants submitted separate applications under provisions of Workmen's Compensation Act claiming

compensation for the injuries sustained during course of their employment on 21-1-1996.

All the injured and deceased were employees in M/s Ganesh Dall Mill, Miryalguda and on 21-1-1996 at about 9 P.M., while they were proceeding to office room of Dall Mill, because of power cut, suddenly, some oil spilled out from the transformer situated adjacent to the office room and caused grievous injuries to the injured and lead to the death of deceased Rachamalla Saidulu. The injured and the legal representatives of the deceased claimed compensation separately and the insurance Company resisted their claim and on an overall consideration of oral and documentary evidence produced on behalf of claimants and the documentary evidence adduced on behalf of Insurance Company, Lower authority granted compensation and questioning the same, Insurance Company preferred these appeals.

Heard both sides.

Advocate for appellant submitted that order of lower authority is contrary to the provisions of Workmen's Compensation Act and probabilities of the case. He further submitted that lower authority erred in taking minimum wages as fixed by the Government for calculating compensation ignoring the fact that premium was paid only for wages of Rs.35/- per day and therefore, the compensation has to be reduced correspondently.

On the other hand, advocate for claimants submitted that when policy is in force covering risk of claimants, the objection of Insurance Company for calculating compensation on the basis of Wages of Rs.35/- per day is not at all tenable. It is further submitted that once premium is paid, minimum wages fixed by Government cannot be ignored and if lesser premium is collected, for that the claimants should not suffer.

Now the point that would arise for my consideration in these appeals is that whether the objection of the Insurance Company is legal and tenable?.

POINT:

As seen from the record, Insurance Company disputed the relationship of employee and employer before the lower authority and on a consideration of material on record, that objection was overruled. Now the only point urged on behalf of appellants is that owner paid premium by calculating the wages of labourer at Rs.35/- per day for 365 days, therefore, liability of the Insurance Company has to be restricted to wages at the rate of 35% per day. As seen from the record, claimants in C.M.A.No.3081 of 2003 is a driver and so far as his wages are concerned, there is no dispute because even Insurance policy covered his wages at the rate of 2/3rd per month and lower authority also took the same. So far as other claimants who are labourers are concerned, the lower authority has taken minimum wages which are Rs.1149/- per month and calculated compensation. Now the objection of Insurance Company is premium is paid only by calculating wages at the rate of Rs.35/-per day and that has to be taken. Even if the rate of Rs.35/- per day is taken, it would come to Rs.1050/- per month and the minimum was Rs.1149/- and hardly difference is Rs.101/-. As rightly pointed out by advocate for claimants, even if the premium is paid for lesser amount, minimum wages fixed by Government cannot be ignored and the lower authority rightly took the minimum wages in calculating the compensation. Except this, no other objection is raised on behalf of Insurance Company with regard to quantum and relationship of employee and employer between the claimants and Dall Mill.

On a scrutiny of material, I am of the considered view that lower authority has rightly calculated compensation by taking minimum wages fixed by the Government and that there are no grounds to interfere with the same.

For these reasons, all the appeals fail and accordingly dismissed. No costs.

As a sequel to the disposal of these appeals,

Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE S.RAVI
KUMAR

Dated 8-7-2016.
Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

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