

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.3039 OF 2004

JUDGMENT:

Heard Miss. P. Lakshmi, learned counsel for the appellants - applicants, and Sri Srinivasa Rao Vutla, learned standing counsel for respondent No.2 - Insurer.

2. Aggrieved over the order, dated 10.12.2003, passed by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Nalgonda (for short 'Commissioner') in W.C. Case No.26 of 2003 (F), awarding a compensation of Rs.2,38,641/- for the injuries sustained by the deceased - G. Yadagiri whose legal representatives are the applicants, by following the formula, taking the basic wage as Rs.1,874/- per month, and the cost of living allowance admissible on the date of accident as Rs.800/-, making a total of Rs.2,674/- as wage component per month and applying the age factor 178.49 taking the age of the deceased as 42 years, arrived at Rs.2,38,641/- and, accordingly, granted the same awarding rate of interest at 9% per annum.

3. Aggrieved over the said award of compensation, the applicants preferred the present appeal under Section 30 of the Workmen's Compensation Act (for short 'Act'), mainly on the ground that the Commissioner failed to take the salary as Rs.4,000/- and requests to take the same as per Section 4 (4) of the Act.

4. In fact, when examined the material placed on record, there is no documentary proof. The documents marked as Exs.A-1 to A-6 relate to police records, driving license and photostat copy of policy. It is no doubt true, it is stated in the order that opposite party No.1, who is respondent No.1 herein, has admitted in his cross-examination that the deceased was paying Rs.4,000/- towards monthly wage. But, however, the applicants have not chosen to examine him for the reasons best known to them. In case, he was examined as a witness, there would have been a chance to the Insurer to test the veracity. Therefore, when viewed the finding recorded by the Commissioner, certainly, it does not suffer from any legal infirmity warranting interference. Therefore, there is no merit in the present appeal.

5. So far as rate of interest is concerned, it was awarded at 9% per annum, the same is enhanced to 12% per annum from the date of occurrence till date of deposit on the amount of Rs.2,38,641/-.

6. The appeal is, accordingly, allowed, in part, to the extent indicated in the above, while confirming the order in all other respects. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the appeal shall stand closed.

A. SHANKAR NARAYANA, J

September 08, 2017
Mgr