

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Civil Miscellaneous Appeal No.1104 OF 2003

JUDGMENT:

The present Appeal is preferred by the Opposite Party, which is Kapra Municipality, represented by its Special Officer (Now, 'Commissioner'), Keesara Mandal, Rangareddy District. Challenge the order dated 17.6.1997, passed by the Commissioner for Workmen's Compensation, Rangareddy District and the Assistant Commissioner of Labour, Rangareddy District, Circle-I, in W.C. Case No.207 of 1994 (F), whereby and whereunder as against the claim of Rs.1,50,000/- laid by the legal heirs of the deceased a sum of Rs.74,115/- was awarded by taking the age of the deceased as 40 years and the monthly wage at Rs.1,475/-, which was restricted to Rs.1,000/- under the provisions of the Workmen's Compensation Act, 1923, prior to introducing Amendment.

2. No representation for the appellant-Municipality. Heard Sri Kurella Ramalingeswara Swamy, learned counsel for the respondents.

3. A perusal of the grounds in the present appeal would not lead to any substantial questions of law, though, formulated in clauses (iii) to (viii) of the Grounds. Two of the submissions would appear somewhat material. Firstly, the Commissioner did not properly appreciate the fact that the deceased workman was not vigilant enough

while sweeping the roads, there is no possibility of exposing to fire accident while performing the duty as Sweeper, if the deceased had taken precautions while performing her duties, in which event there is negligence on the part of the deceased workman. Second, the Commissioner failed to give reasons in awarding huge compensation, and, thus, the order suffers from various infirmities.

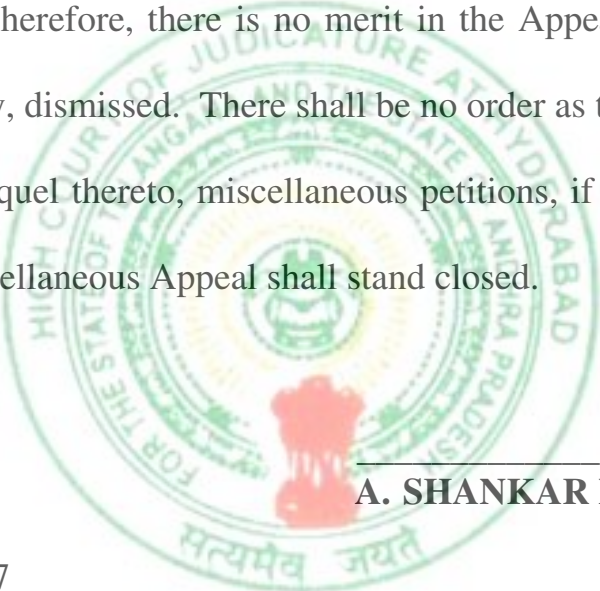
4. Perused the order of the Commissioner. The Commissioner, having extracted evidence on record while referring to the documents and on appraisal of evidence, recorded the finding that there is clear relationship of 'employer and employee'. This apart, the deceased gutting due to fire and succumbing to burns on account of fire while she was throwing the substance and getting caught with fire cannot be viewed as outside performance of duty and that has been the reason the Commissioner held that there was no negligence on the part of the deceased. The Commissioner has also rejected the submission of the appellant that the deceased did not try to get fire extinguished. The deceased was not supposed to extinguish the fire in the dust bin and the other contention raised by the opposite party i.e., the appellant that compassionate appointment was given to the son of the deceased, and, therefore, the Municipality is not liable to pay the compensation would not sustain.

5. One thing is certain from the facts occurring on record that the accident occurred during the course of employment and that too while performing duties by the deceased. Therefore, it is difficult

to hold that the deceased herself was totally negligent and thereby to exonerate the Municipality. This apart, though, in the Grounds of Appeal, it is agitated that there have been several infirmities in the order, those infirmities are not clearly depicted in the Grounds. Even the ground that huge amount was awarded is without any merit for the reason that the impugned award was only for Rs.74,115/-, that too basing on the formula mandated by the provisions of the Act, fixing the age of the deceased as 40 years.

6. Therefore, there is no merit in the Appeal and the same is, accordingly, dismissed. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the Civil Miscellaneous Appeal shall stand closed.



A. SHANKAR NARAYANA,J

Dt. 09.10.2017
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