

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.267 OF 2005

JUDGMENT:

The present Civil Miscellaneous Appeal, under Section 30 of the Workmen's Compensation Act, 1923, is preferred by the Opposite party - employer viz., The Singareni Collieries Company Limited, Shanthikhani Mine, Near Bellampalli, Adilabad, aggrieved over the order dated 30.10.2004 in W.C. No.72 of 2001, passed by the learned Commissioner for Workmen's Compensation (Assistant Commissioner for Labour - I), Warangal, awarding an amount of Rs.1,84,170/- with simple interest at 12% per annum from 15.09.1996 to the date of deposit.

2. Various grounds have been agitated in the grounds of appeal, but, during the course of hearing, Sri M. Shankar Narayan, learned counsel for the appellant - opposite party, and Sri V. Ravi Kiran Rao, learned counsel for the respondents - applicants, would submit that in alike fact-situation, this Court rendered the order dated 14.10.2015 in C.M.A. No.884 of 2005 between **Singareni Collieries Co. Limited, Sreerampur, Mandal Mancherial, Adilabad District v. Arkati Gattu Mallu¹** and request to dispose of the present appeal in accordance with the said order.

¹ 2016 (2) ALD 525

4. What has been observed by the learned Single Judge in paragraph No.28, reads thus:

“As per the case of the applicants, the deceased was aged about 40 years. The applicants have not produced any document to prove that the deceased was aged about 40 years by the time of his death. As per the recitals of Ex.B2, the deceased was aged about 42 years. Basing on Ex.B2, the learned Commissioner has taken the appropriate factor as 178.49. As per Ex.A7 pay-slip the deceased was drawing Rs.9,139.96 ps per month. The learned Commissioner has taken the monthly wages of the deceased as Rs.4,000/- in view of ceiling under the provisions of W.C. Act. By meticulously following the procedure contemplated under the Act, the learned commissioner rightly awarded the compensation of Rs.3,56,980/-. The opposite party Nos.1 and 2 are liable to pay the compensation. There are no grounds much less valid grounds to interfere with the well considered order of the learned Commissioner. The civil miscellaneous appeal lacks merits and *bona fides*. Accordingly, the questions are answered.”

5. In the present case, the age of the deceased was taken as 40 years and age factor ‘184.17’ was applied and taken the income at Rs.2,000/- per month and half of it, at Rs.1,000/-, and arrived at Rs.1,84,170/- towards compensation and accordingly awarded the same with interest at 12% per annum from the date of petition i.e., 15.09.1996. In arriving so, the learned Assistant Commissioner has taken the evidence of WVs.1 and 2 and Exs.A-1 to A-4 on behalf of the applicants and the evidence of RW.1 and Exs.B-1 to B-4 on behalf

of the opposite party in to consideration, and rejected the stand of the opposite party and the ruling relied on by it. As many as five (5) issues were settled for trial. It was held in unequivocal terms that strain and stress in the work could be the sole or contributory cause for the injury to heart and upon heart-attack / cardiac failure, the dependants of the workman are entitled for compensation.

6. In **Arkati Gattu Mallu¹**, this Court affirmed the order of the learned Commissioner in taking monthly wages of the deceased as Rs.4,000/- keeping in view the cap and dismissed the appeal preferred by the opposite party, where the applicants claimed that the deceased was drawing Rs.9,139.96 paise per month.

7. In the instance case, as could be seen from the order under challenge, no infirmity is to be found except to the extent that interest was granted at 12% per annum from the date of application, though, the law declared by the Hon'ble Supreme Court is from the date of accident. However, the present appeal is preferred by the opposite party and it is not a case where ceiling of wages at Rs.4,000/- per month be taken, as what was drawn by the deceased was more than Rs.2,000/- only and 50% thereof was considered for computing compensation.

8. There is absolutely no legal infirmity warranting interference in the order under challenge and, therefore, the Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the appeal stand disposed of.

August 8, 2017.
PV

A. SHANKAR NARAYANA, J

