

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CMA No.336 of 2007

JUDGMENT:

This appeal is filed against the order, dated 31.08.2006, passed by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Adilabad (for short 'the Commissioner') in W.C.Case No.11 of 2003 presented by the respondents herein, the wife, minor son, mother and sister of the deceased Anand Roop Jellawar, against the owner of the vehicle, respondent No.5 herein, and the insurance company, appellant herein, claiming a sum of Rs.2,60,000/- as compensation.

The case of the appellant is that the deceased was aged about 25 years and he was employed as Cleaner on vehicle bearing No. APT 9113 and his monthly income was Rs.2,169/- and Rs.60/- batta per day. The application states that on 01.06.2002, when the deceased was working with respondent No.5 herein, he was asked to adjust the tarpaulin of the lorry. At that time, while boarding the lorry body from the cabin, the deceased slipped from the running lorry and died due to the injuries sustained by him. Therefore, the respondents-claimants filed the W.C. Case claiming a sum of Rs.2,60,000/- towards compensation and interest at 12% per annum as the death occurred during and in the course of employment.

Respondent No.5 (opposite party No.1 in the W.C. Case) has chosen not to contest the Case and remained *ex parte*. The

appellant (opposite party No.2 in the W.C. Case) filed its counter denying all the allegations.

On behalf of the claimants, respondent No.1 was examined as P.W.1 and she filed six documents which were marked as Exs.A1 to A6. The appellant filed a copy of the insurance policy but no oral evidence was adduced on their behalf.

After considering the facts and circumstances of the case and the evidence on record, the Commissioner came to the conclusion that the respondents-claimants are entitled to compensation and that as no contradictory material to rebut the contentions of the respondents-claimants is available, he awarded a sum of Rs.2,18,227/- towards compensation along with interest at the rate of 12% per annum. Hence, this appeal.

The essential ground raised in this appeal is that the Commissioner while awarding compensation erroneously granted interest at 12% per annum on the basis of the calculation made 30 days after the accident and that the insurance company/appellant cannot be called upon to pay interest.

Heard Sri A.V.K.S.Prasad, learned Standing Counsel for the appellant and Sri S.Surender Reddy, learned counsel for respondent Nos.1 to 4.

After considering the submissions made, it is clear that Section 4A(3) of the Workmen's Compensation Act (for short 'the Act') authorizes the Commissioner to award interest on the

compensation awarded. The insurance company did not deny the existence of the insurance policy and as such it had stepped into the shoes of respondent No.5, who is the insurer of the vehicle, and is therefore, liable jointly and severally. Hence, this Court finds that there is no valid ground to set aside the finding, as, both the settled law and Section 4A(3) of the Act authorize the Commissioner to award interest. In **National Insurance Co. Ltd. Vs. Mubasir Ahmed**¹ and other cases starting from AIR 1997 SC 3854 (Ved Prakash Garg Vs. Premi Devi), the Hon'ble Supreme Court upheld the award of interest by the Commissioner. This Court is of the opinion that the Commissioner exercised his jurisdiction correctly. Nothing to the contrary was pointed out.

For all these reasons, the appeal is dismissed. In the circumstances, no order as to costs.

Miscellaneous petitions, if any, pending in this appeal shall stand dismissed. There shall be no order as to costs.

D.V.S.S.SOMAYAJULU,J

Dt:03.11.2017

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¹ 2007 (2) SCC 349

