

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.297 of 2005

JUDGMENT:

Assailing the order, dated 20.11.2004, in W.C.No.83 of 2004 on the file of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour –III, Hyderabad, whereby and whereunder an amount of Rs.2,30,568/- was granted as compensation for the injuries sustained by the petitioner – claimant working as a cleaner on a lorry bearing No. AP 21 T 1512, which dashed against a stationed lorry from behind, the present appeal is preferred by the insurer i.e., United India Insurance Company Limited – 2nd opposite party in the said W.C., mainly on the ground that the age of the claimant was shown as 55 years in the medical records, but the age 45 years described in police records was considered by the Commissioner.

Heard Sri A.V.K.S.Prasad, learned Standing Counsel for the appellant. No representation for respondent No.1, though, he entered appearance, whereas respondent No.2, though, served with notice, has not entered appearance. Perused the documents marked as Exs.A1 to A17 and the evidence of A.Ws.1 and 2.

The submission of the learned Standing Counsel is that the Commissioner went wrong in considering the age of the petitioner as 45 years, overlooking the age described as 55 years in the medical records of Ram Hospital, and, thus, the same is not based on proper appreciation of evidence on record. This has been the only submission made in resisting the order under challenge. The documentary evidence, more particularly,

Ex.A1 – certified copy of the First Information Report, would show that the claimant was the author and he has described his age as 45 years in his description. The same was followed in all other documents, such as charge sheet, medico legal case request and the complaint. It is no doubt true, the medical record would show the age of the claimant as 55 years, but, when a particular point is in his favour, the view that has to be taken is, which is beneficial to him in accident claims. In fact, when the claimant himself, who is the complainant, stated his age as 45 years in the present complaint or the First Information Report, certainly, it would prevail over the age shown in subsequent documents. Therefore, computing the compensation based on the age recorded in the First Information Report, certainly, cannot be faulted. There is no merit in the present appeal.

Accordingly, the Civil Miscellaneous Appeal is dismissed.

Miscellaneous applications, if any pending in the instant appeal, stand closed. There shall be no order as to costs.

A. SHANKAR NARAYANA, J

August 16, 2017

v v