

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

C.M.A. No.2605 OF 2004

JUDGMENT:

The present appeal is preferred under Section 30 of the Workmen's Compensation Act, 1923 (for short 'Act') by opposite party Nos.1 to 3, questioning the order, dated 03.03.2004, passed by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour-III, Hyderabad (for short 'Commissioner'), in W.C. Case No.96 of 2003, whereby and where-under, the Commissioner awarded a compensation of Rs.33,858/- and stamp fee of Rs.68/- and the advocate fee of Rs.500/-, making a total of Rs.34,426/- with interest at 9% per annum thereon.

2. The appellants herein are opposite parties in the aforesaid W.C. Case, while respondent is the applicant.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed in the W.C. Case.

4. Heard Sri Peri Prabhakar, learned counsel for the appellants - opposite parties, and Dr. Vissa Venkateswara Rao, learned counsel for respondent - applicant.

5. The Commissioner awarded Rs.33,858/- towards loss of earning power for the injuries sustained by the applicant to his both

legs by applying formula $\text{Rs.}2220.25 \times 60/100 \times 15/100 \times 169.44$.

The said order has been under challenge in the present appeal.

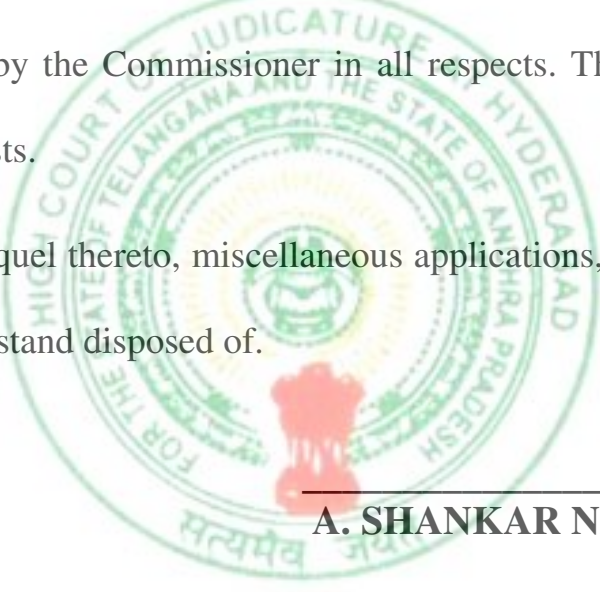
6. The learned counsel for the appellant would submit that the applicant being care taker of the tank, in which acid was stored, ought not to have put his both hands to wash his face thinking that it was water contained in the tank, and thereby sustained burns to his person and immediately he was got treated by the management i.e., opposite parties. No doubt, as could be seen from the appendix of evidence and material on record, Exs.B-1 and B-2 have been marked to show that every care was taken by the opposite parties to get the applicant treated well and make him normal.

7. The submission made by the learned counsel for the opposite parties is that the hands of the applicant were burnt, but every document would only indicate that the applicant sustained burns to his both legs but not to his hands. Thus, there is something wrong in putting forth the stand by the opposite parties. The photograph is also filed by the applicant when he made claim before the Commissioner. The photograph also makes it very clear that both the legs up to thigh level were burnt and patches are visible in the photograph, but no burns were received by him to his hands. That itself would belie the stand taken by the opposite parties. The learned Commissioner basing on the said injuries and also the certificate issued by a doctor called Dr. Shekhar Padke evaluating the disability at 15%. No doubt, an

attempt is made by the learned counsel for the opposite parties that the second schedule to the Act does not cover the present situation. But, the fact remains that the certificate was issued by a doctor and believed the same by the learned Commissioner. The learned Commissioner is the fact-finding final authority. Therefore, that finding recorded by the learned Commissioner cannot be upset in the present appeal as there is no merit.

8. The present appeal is, accordingly, dismissed confirming the order passed by the Commissioner in all respects. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.



A. SHANKAR NARAYANA, J

October 26, 2017.
Mgr