

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

C.M.A.No.382 of 2006

JUDGMENT:

This is an appeal filed by the National Insurance Company against the orders dated 31.08.2004 in W.C. Case No.21 of 2000 by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour-2, Ranga Reddy District.

The case is filed by the parents of the deceased employee claiming compensation for the death of their son in an accident arising out of and in the course of employment. The first opposite party is the owner of the lorry and the second opposite party is the insurance company. First opposite party did not file the counter or contest the matter. Second opposite party contested the case on merits.

On behalf of the applicants, Exs.A.1 to A.7 were marked. On behalf of the second opposite party, Exs.B.1 to B.6 were marked. Two witnesses were examined for the applicants and one witness was examined for the second opposite party.

After considering the evidence on record etc., the Commissioner came to a conclusion that a sum of Rs.1,40,409/- is payable by opposite parties 1 & 2. It is the order that is challenged in the present appeal

The essential questions that arise are about the lack of employer and employee relationship being proved and

whether the driver of the vehicle that caused the accident had a valid driving licence.

The accident in question occurred on 28.05.1997. The second opposite party sent a copy of the driving licence of the driver in question for verification to the Road Transport Authority, Vijayawada. Ex.B.6 is the said letter and there is an endorsement of the Licencing Authority on the reverse of Ex.B.6. As per this endorsement, the driving licence was not valid on 28.05.1997 (date of accident). This document was marked and proved through PW.1.

Thereafter, RW.2 was summoned from the office of the Deputy Transport Commissioner, Vijayawada. He also deposed that on the date of accident, there was no valid driving licence. Ex.X.1 is the document marked by him. However, in his cross-examination, he clearly admits that the Motor Vehicles Inspector report (Ex.A.5) clearly shows that the licence is valid on the date of the accident. He also admits that Ex.A.3-driving licence was renewed up to 23.10.1998 by the Guntur Licencing Authority and also admits that as per Ex.A.3 driving licence, the driver is competent to drive the heavy vehicle up to 1998. Therefore, the argument that on the date of the accident i.e., on 28.05.1997 the driver of the vehicle did not have valid licence is not borne out by the record and on the contrary the witness summoned from the Road Transport Authority clearly admits to the existence of a valid licence on the date of the

accident. Therefore, this issue is decided in favour of the applicants and against the insurance company.

The next point urged is that the employer and employee relationship is not proved. The Commissioner for Workmen's Compensation relied upon the documents filed to come to a conclusion that the same is proved. In cases of this nature particularly in an unorganized sector, the formal letters of appointments etc. are rarely granted. However, the documentary evidence like Exs.A.1 and A.2 (FIR, inquest report) clearly show that the employee in question was working with first opposite party. The accident occurred when the deceased and other employees were unloading the stones and the vehicle was driven by the driver negligently due to which the stones fell on the deceased. Therefore, this Court is of the opinion that the finding of the lower Court on this issue is in tune with the evidence generally in cases like this. The occurrence of the accident is not in dispute, the death of the employee is not in dispute. The deceased is a 18 years old age boy and his father deposed as first opposite party and the corroboration to the accident is proved by the second witness and other documents. Therefore, this Court is of the opinion that the accident had in fact occurred as stated. The Act itself is a welfare legislation and some amount of latitude is available to give the benefit of the Act to the family of deceased. A purposive but liberal interpretation is adopted. Hence, the assessment of evidence by the lower

court cannot really be questioned. This Court is of the opinion that the impugned order does not suffer from any infirmity.

In the result, the Civil Miscellaneous Appeal is dismissed and the impugned order dated 31.08.2004 in WC No.21 of 2000 of the Commissioner for Workmen's Compensation is confirmed. However, there shall be no order as to costs. Miscellaneous Petitions, if any pending in this appeal shall stand closed.

Date: 22.11.2017
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D.V.S.S. SOMAYAJULU, J

