

**THE HONOURABLE SRI JUSTICE D.V.S.S. SOMAYAJULU**

**CIVIL MISCELLANEOUS APPEAL No.782 of 2006**

**JUDGMENT:**

This appeal is preferred against order dated 21.02.2005 in E.I. Case No. 4 of 2001 on the file of Chairman, Industrial Tribunal-1, Hyderabad and the Employees State Insurance Court, Hyderabad.

2. Heard Sri William Burra, learned counsel for the appellant and the learned Government Pleader for Appeals.

3. The learned Government Pleader for Appeals produced a copy of the order, dated 01.03.2004 passed by Sri S.Bhujanga Rao, Judge, E.S.I. Court, Hyderabad in E.I. Case No.4 of 2001. The learned Government Pleader states that for the very same accident, an adjudication was done and in a full fledged trial, two witnesses were examined and documents were marked for both petitioner and respondents and the E.S.I. Court came to a conclusion and allowed the petition.

4. Peculiarly, for the very same cause of action and the same accident, a second adjudication was done in the same case bearing No. E.I. Case No.4 of 2001 and an order dated 21.02.2005 was passed by the then Judge, E.I. Court. In the first order passed on 01.03.2004, it is noticed that two

witnesses, namely, Sri T.Srinivasulu, Prosecution Witness-1 and Sri C. Krishnaiah, Respondent Witness-1 were examined, whereas from the subsequent second order dated 21.02.2005, it appears that Sri T.Srinivasulu was examined as PW-1, Sri C.Krishniah was examined as RW-2 and for respondent No.3 one Sri G.Laxman Rao was examined and in addition to that exhibits R8 and R9 were also marked.

5. A reading of the record discloses that nobody brought to the notice of the Court, when the matter is being heard the second time that the case was already disposed of by an order dated 01.03.2004. The record also does not reveal that order dated 01.03.2004 was reversed in appeal or that the matter was remanded back to the Court. It appears to be a case of misinformation and failure to bring to the notice of the Court about the earlier adjudication in the matter. Considering that the order dated 01.03.2004 is an order passed on merits, this Court is of the opinion that once the matter is heard and decided already, it cannot be heard once again and decided for the same cause of action. This is the principle of res judicata which is applicable to all the Courts and Tribunals as it is the law of the land.

6. Hence, for all the above mentioned reasons, the order dated 21.2.2005 in E.I. Case No.4 of 2001 is liable to be set aside and is accordingly, set aside. Appeal is accordingly, allowed. There shall be no order as to costs.

7. Miscellaneous petitions pending, if any, in this Civil Miscellaneous Appeal shall stand closed.

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**JUSTICE D.V.S.S. SOMAYAJULU**

Date:15.11.2017  
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