

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

[*Special Original Jurisdiction*]

WEDNESDAY THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND SEVENTEEN

PRESENT

HONOURABLE JUSTICE D.V.S. S. SOMAYAJULU

CMA.No. 773 OF 2007

Between:

The New India Assurance Co.Ltd.,
Represented by its Divisional Manager,
Kurnool, Kurnool district. ... Appellant

V/s.

G. Madamma & Anr. ... Respondents

Counsel for the appellant : Sri C. Prakash Reddy

Counsel for the Respondents : Sri K. Rathangapani Reddy

The court made the following: [Judgment follows]

HONOURABLE JUSTICE D.V.S.S. SOMAYAJULU

CMA.No. 773 OF 2007

J U D G M E N T :

This is an appeal filed against the orders dated 19/01/2007 passed in W.C.No. 22 of 2003 by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Kurnool. The case relates to the death of one G. Maddilety, who is engaged as a workmen on a lorry bearing No. AP-21-T-7659, on a monthly wages of Rs.3,000/-. The said lorry belongs to respondent No.1, which was insured with respondent No.2.

2. As per the averments made in the case, when the aforesaid lorry was proceeding near Gooty in Ananthapur district at about 02:00 a.m., an accident occurred due to collusion with another lorry and the applicant's husband succumbed to the injuries. As the death occurred during the course of employment, the wife of the deceased claimed for payment of compensation of Rs.3,50,000/- with interest.

3. The first respondent set ex-parte. Respondent No.2 contested the application on various grounds. After receiving the pleadings the

Commissioner framed four points for determination and examined AW-1, who is complainant herself and Exs.A-1 to A-5 were marked.

On behalf of respondent No.1 neither oral nor documentary evidence was adduced. On behalf of respondent No.2, a true copy of the Insurance Policy filed and the same was marked as Ex.B-1.

4. After considering the oral and documentary evidence including the FIR and the certified copy of the inquest report etc., the learned Commissioner came to the conclusion that the deceased met with an accident in the course of employment. The Commissioner relied upon the age of the deceased when Ex.A-2 inquest report and as far as wages is concerned, he held that there is no evidence to disprove what was being stated by the claimant and therefore, he considered the wages of Rs.100/- per day. He held that there is valid insurance coverage on the offending lorry. Considering all the aspects, the learned Commissioner for Workmen's Compensation came to a conclusion that both the opposite parties are liable to pay compensation of Rs.2,39,421/- with interest @ 6% per annum.

5. Aggrieved by the orders dated 19/01/2007 passed in W.C.No. 22 of 2003 by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Kurnool, this Civil Miscellaneous Appeal is filed by the second respondent-Insurance company.

6. Essentially two grounds were raised in this appeal.

7. As observed by the Commissioner in his order, the wife of the deceased workman averred that the deceased was earning Rs.100/- per day. Respondents failed to adduce any evidence to disprove the claim made by the wife of the deceased workman. Therefore, the Commissioner for Workmen's Compensation in these circumstances came to a conclusion that the daily wages of Rs.100/- per day and the monthly wages were Rs.2,600/-. Even if the same is considered as per the Minimum Wages Act, the same is reasonable.

8. As far as the interest is concerned, after 1995, Workmen's Compensation Act has been amended and in a catena of judgments commencing from 1997, the Hon'ble Supreme Court in **VED PRAKASH**

V/s. PREMI DEVI ¹, and other judgments noticed amendment to the Workmen's Compensation Act and more particularly section 4 [a] 3 [b] and upheld the award of interest. I see no reason to take a contrary view. The learned standing counsel for the respondent No.2 Insurance company has not brought any judgment to the notice of this Court to disprove that interest cannot be granted after amendment and after the pronouncement of judgment by the Hon'ble Supreme Court.

9. For all these reasons, this Civil Miscellaneous Appeal is dismissed, confirming the orders dated 19/01/2007 passed in W.C.No. 22 of 2003 by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Kurnool. In the circumstances, this Civil Miscellaneous Appeal is dismissed without costs.

10. As a sequel, miscellaneous petitions if any, pending in this CMA shall stand disposed of.

JUSTICE D.V.S.S. SOMAYAJULU

08/11/2017
I s L

¹) AIR - 1997 S.C. 3854

HONOURABLE JUSTICE D.V.S.S. SOMAYAJULU



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