

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.847 of 2003

ORDER:

The present appeal is preferred against the order, dated 08-10-2002, passed by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Ranga Reddy District, Circle-II, T.Anjaiah Karmika Sankshema Bhavan, R.T.C. 'X' Roads, Hyderabad, whereby and whereunder the compensation of Rs.1,29,103/- was ordered saddling the liability on respondents 1 and 2 in W.C.No.32 of 2000 with interest at 8% per annum.

2. The method of calculation in determining the said amount has been stated in the last four paragraphs of the order. The only ground agitated in the appeal according to the learned Standing Counsel for the appellant/insurer (United India Insurance Company Limited) is that in fact on the date of issue of the policy one Sri B. Balraj, Shamshabad was the owner of the vehicle and therefore, the policy was issued in his name but the 1st respondent before the Commissioner was shown as Smt.Lakshamma, in whose name the vehicle was subsequently transferred and therefore, the appellant is not liable to pay the compensation.

3. The said aspect was adverted to in the internal page 5 of the order in paragraph No.1 while extracting the evidence of RW-1 i.e., Sri A. Venkateshwarlu, Assistant Divisional

Manager on behalf of the insurer. But the learned Standing Counsel fairly submits that such a plea was not put-forth in the counter.

4. The plea relates to factual aspect. Unless, there is factual foundation laid in the pleadings, the party is not permitted to lead evidence thereon. It is settled proposition of law that the very fact that no issue touching the said aspect was framed would amply reflect that such a plea was not put-forth in the counter. It appears now that effort was made to introduce such plea at a belated stage. Therefore, there is no merit in the appeal and the appeal is liable to be dismissed.

5. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the order, dated 08-10-2002, passed by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Ranga Reddy District, in W.C.No.32 of 2000. No costs.

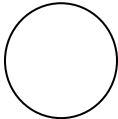
6. Miscellaneous Petitions pending, if any, pending in this Civil Miscellaneous Appeal shall stand closed.

A. SHANKAR NARAYANA, J

August 10, 2017

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