

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.3613 of 2004

JUDGMENT:

Heard Sri M.Rajamalla Reddy, learned counsel for the appellant - applicant, and Sri Harinath Gupta, learned Standing Counsel for respondent No.2 – Insurance Company.

The applicant filed W.C.No.177 of 1996 before the Commissioner for Workmen's Compensation and Assistant Commissioner for Labour at Nalgonda (for short, 'the Commissioner'), claiming compensation of Rs.2,00,000/- on the ground that he sustained injury while under the employment of respondent No.1. He has taken various pleas and examined himself as AW.1 and the doctor as AW.2, besides marking Exs.A1 to A6. On behalf of the Opposite Parties 1 and 2, none were examined, but Ex.B1 was marked.

The Commissioner, having analysed the evidence on record, disbelieved the evidence of AW.2 on the ground that the applicant sustained only a simple injury and the charge sheet was also laid only for offence under Section 337 of the Indian Penal Code and found fault with AW.2 in issuing disability certificate just based on the ground that the applicant suffered post-traumatic stiffness of right knee joint. The Commissioner opined that in the absence of convincing evidence to show that there was loss of earning capacity on account of the injuries sustained by the applicant, the applicant was not entitled to any compensation. To say precisely, the authority opined that there was no

basic evidence at all to show that the applicant was entitled for any compensation and, thereby, dismissed the claim by order dated 30.04.2004.

Aggrieved over the aforesaid order, the present appeal is preferred by the applicant.

Learned counsel for the appellant would submit that AW.2 has issued 30% disability certificate and the Commissioner was not right in discarding the same.

A perusal of the material on record would clearly indicate that there was no grievous injury sustained by the applicant. AW.2 cannot just issue a disability certificate mentioning post-traumatic stiffness of right knee alleged to have been suffered by the applicant, as the same would not occasion any permanent disability. There is no merit in the appeal.

Accordingly, the Civil Miscellaneous Appeal is dismissed. There shall be no orders as to costs.

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

JUSTICE A.SHANKAR NARAYANA

29.08.2017

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