

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

C.M.A. No. 2469 of 2004

JUDGMENT:

This appeal is filed against the order, dated 07.01.2004, in W.C. Case No.125/1999 NF, passed by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Nizamabad (hereinafter referred to as 'the Commissioner').

The case of the appellant is that he was working as a labourer under respondent No.1 on Tractor and Trailer bearing Nos. AP 25 T 4170 and AP 25 T 4171 respectively, on a monthly salary of Rs.3,000/- and batta of Rs.50/- per day. On 08.06.1997, while he along with other labourers was travelling towards Nagireddypet in the said Tractor and Trailer, an accident took place on account of rash and negligent driving of the driver of lorry bearing No. AP 9T 3767, as a result of which, he received grievous injuries. Hence, he filed W.C. Case claiming a sum of Rs.3,00,000/- towards compensation.

Respondent No.1, owner of the Tractor and Trailer and respondent No.2, insurer, filed their counters.

Before the Commissioner, the appellant examined himself as P.W.1 and the Doctor, who treated him, as P.W.2 and marked

Exs.A.1 to A.8. On behalf of respondent No.2, R.W.1 was examined and Ex.B1, copy of the Insurance Policy was marked.

The Commissioner, after considering the oral and documentary evidence, awarded compensation of Rs.96,768/- to the appellant holding that the respondents are jointly and severally liable to pay the same. Not satisfied with the same, the appellant filed the instant appeal seeking enhancement of the compensation.

Learned counsel for the appellant contends that the Commissioner had taken the income of the appellant as Rs.1,800/- instead of Rs.3,000/-, as deposed by the appellant in his evidence. He also contends that the Commissioner had not granted any interest on the amount of compensation awarded in favour of the appellant.

On the other hand, learned Standing Counsel appearing for the respondent Insurance Company, while opposing the compensation on the ground that it was on higher side, would submit that as per G.O.Ms.No.71, dated 16.04.1991, the minimum wages at the relevant point of time was Rs.675/- and with addition of VDA, the same would come to Rs.1,265/-, whereas the Commissioner had taken the same as Rs.1,800/- which is much higher than what should have been taken. On this aspect, as a matter of fact, it is the Insurance Company which

ought to have filed the Appeal. The learned Standing Counsel, placing reliance on the judgment of this Court in ***United India Insurance Company Limited Vs. Vaggu Balram***¹, would further submit that the minimum wage notified by the Government from time to time would be the basis for granting compensation in the case of a workman. He would also submit that as was the practice at the relevant point of time, the interest was not awarded, hence, the same cannot be faulted.

Having considered the respective submissions and in the light of the judgment of this Court in ***Vaggu Balaram's*** case (cited supra), the minimum wages notified by the Government have to be taken as the basis. However, considering the claim and on appreciation of evidence, the Commissioner had taken Rs.1,800/- per month as the salary which is reasonable and acceptable at the relevant point of time. In these circumstances, there being no other material to come to a different conclusion, this Court is of the firm opinion that the claim of the appellant cannot be accepted and that the compensation awarded by the Commissioner does not warrant interference by this Court.

Insofar as the award of interest is concerned, in ***Saberabibi Yakubhai Shaikh v. National Insurance Company Limited***², the Hon'ble Supreme Court consistently held that the claimants would

¹ 2005 ACJ 1384

² 2014 ACJ 467

be entitled to interest from the date of accident. In view of the said judgment, the appellant shall be entitled to be paid interest at 12% from the date of accident till the date of deposit of the amount.

The Appeal is accordingly allowed in part. No costs.

Miscellaneous petitions, if any pending shall stand disposed of. There shall be no order as to costs.

Dt: 28.12.2017
kdl

CHALLA KODANDA RAM, J

