

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.600 of 2005

JUDGMENT:

Opposite Party Nos.1 and 2 in W.C.No.4 of 2000 on the file of the Commissioner for Workman Compensation, Adoni (Kurnool District) (for short, 'the Commissioner') preferred the present appeal questioning the order dated 01.03.2004 passed in the said W.C., whereby and whereunder, a sum of Rs.1,67,790/- was granted as compensation for the injuries sustained by the applicant while under employment.

The appellants herein are opposite party Nos.1 and 2, whereas respondent No.2 is the applicant in the said W.C.

For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Commissioner in the W.C.

Before the Commissioner, the applicant claimed that he was earning Rs.7,000/- per month. However, the Commissioner, while observing that Rs.7,000/- can be taken as monthly wage of the applicant, has considered 60% thereof, which comes to Rs.4,200/-, and applying the multiplier factor '159.80', since the applicant was aged 48 years, arrived at Rs.6,71,116/- and considering 25% disability as per the Medical Certificate issued by the doctor, awarded compensation of Rs.1,67,790/- with interest at 6% per annum from the date of filing of the petition till realisation.

It is the aforesaid order which is under challenge in the instant appeal filed by the respondents contending in the grounds that the

Commissioner erred in taking monthly wage at Rs.7,000/- ignoring the provisions of Section 4 of the Workmen's Compensation Act, through Explanation-II a cap is inlaid providing the maximum of Rs.4,000/- per month, and, of course, the disability certificate was also questioned as one of the grounds and, thereby, sought to set aside the order under challenge.

Heard Sri A. Rama Rao, learned Standing Counsel for the appellants, and Sri J. Janaki Rami Reddy, learned counsel for respondent No.2.

Learned Standing Counsel, having gone through the grounds, clearly agreed that there was mistake in mentioning Rs.7,000/- as against Rs.4,200/- monthly wage considered by the Commissioner.

Now, the only question to be considered is whether the request of the applicant that he is entitled to claim compensation with monthly wage of Rs.4,000/- only, as against Rs.4,200/- considered by the Commissioner, can be acceded to ?

So far as the disability is concerned, the Commissioner has considered 25% disability based on the evidence of Medical certificate issued by the doctor and, therefore, the same cannot be interfered with. If monthly wage is taken at Rs.4,000/-, as against Rs.4,200/- considered by the Commissioner, and the factor '159.80' is applied, as was applied by the Commissioner, and also 25% disability as considered by the Commissioner, the amount would work out to Rs.1,59,800/- and the

petitioner is entitled to the same. Thus, the compensation of Rs.1,67,790/- awarded by the Commissioner is reduced to Rs.1,59,800/-.

Though, the rate of interest at 6% per annum granted by the Commissioner is not in accordance with the statutory provisions, since the applicant has not preferred any appeal, the same is maintained on the reduced amount.

Accordingly, the instant appeal is partly allowed to the extent indicated above. There shall be no orders as to costs.

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

08.09.2017
v v

JUSTICE A.SHANKAR NARAYANA

