

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

C.M.A.No. 2813 OF 2004

J U D G M E N T:

Applicants in W.C. No. 11 of 2000 (NF) on the file of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Nizamabad are the appellants in this Appeal. On the ground of inadequacy, they challenge the order dated 24.05.2003, whereunder the respondent opposite parties were directed to deposit an amount of Rs.1,83,465/- jointly and severally towards compensation.

The facts, in brief, are as follows:

One Sri Chakali Nadipi Gangadhar, husband of the 3rd appellant and father of appellants 1 and 2, during the course of employment as a cleaner on the lorry bearing Registration No. AP 13 T 2301 belonging to the 1st respondent, met with an accident on 28.07.1997 and sustained multiple fractures and grievous injuries, which resulted in his death on 21.03.1999, while undergoing treatment. The deceased was stated to be 30 years. The appellants herein filed W.C. No. 11 of 2000 (F) under the Workmen's Compensation Act, 1923, claiming that at the relevant point of time, the deceased was earning Rs.3,000/- per month and batta at Rs.50/- per day. The Commissioner, after taking into consideration the material available on record, held that the death of the deceased was due to the injuries sustained by him in the accident and hence, the owner and the insurance company are liable to pay jointly and severally. The Commissioner, had taken the salary of the deceased as Rs.1,800/- per month and based on Ex.A3 Injury Certificate, which shows his age as 32 years, awarded

a sum of Rs.1,83,465/- as compensation. Dissatisfied, this Appeal has been filed.

Learned counsel for the appellants contends that despite the categorical deposition of the 1st respondent to the effect that the deceased was paid salary of Rs.2,000/- per month with batta of Rs.50/- per day, the Commissioner had taken it as Rs.1800/-. Further, it was contended that the amount of compensation was not directed to carry any interest.

On the other hand, learned Standing Counsel 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.1265/-, whereas the Commissioner had taken it as Rs.1800/- which is much higher than what should have been taken. He would further contend that 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, contends 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 ought to have been taken as the basis. However, considering the claim and on appreciation of

¹ 2005 ACJ 1384

evidence, the competent authority i.e. the Commissioner had taken Rs.1800/- per month as the salary which is reasonable and acceptable at the relevant point of time. In those circumstances, there being no other material to come to a different conclusion, this Court is of the firm opinion that the claim of the appellants cannot be accepted and that the compensation as awarded by the Commissioner does not warrant any interference.

Insofar as the award of interest is concerned, the Hon'ble Supreme Court in ***Saberabibi Yakubhai Shaikh v. National Insurance Company Limited***², consistently held that the claimants would be entitled to interest from the date of accident. In view of the said judgment, the appellants 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.

The miscellaneous Applications, if any shall stand disposed of.

CHALLA KODANDA RAM, J

07th December 2017

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² 2014 ACJ 467