

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.1580 of 2018

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Respondents 1 and 2.

2. The petitioner, who is the mother of one Sri S.Prasad, consequent upon the death of the said Prasad in a fatal accident, filed Workmen Compensation Case vide W.C.No.18 of 2011 on the file of the Court of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Kadapa. The Commissioner for Workmen's Compensation passed an order on 19.4.2017, granting compensation of Rs.4,86,461/-, besides stamp duty of Rs.973/- with interest @ 12% per annum from the date of accident till the date of realisation. In the said order, a direction was given by the Commissioner to the applicant to make a representation to the Commissioner for Workmen's Compensation and Joint Commissioner of Labour, Kurnool for release of the compensation amount.

3. Pursuant to the above said order, on 6.9.2017, petitioner herein submitted an application, requesting for release of the entire compensation amount awarded by the Commissioner. Alleging inaction on the part of the Respondents in releasing the amounts, the present writ petition came to be instituted.

4. According to the learned counsel for the petitioner, the impugned action on the part of the Respondents 1 and 2 is highly illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India and also opposed to the provisions of Workmen's Compensation Act. It is the further

submission of the learned counsel that the petitioner herein is the sole dependent of the deceased, as such there is no justification on the part of the Respondents in not releasing the amounts awarded.

5. On the other hand, it is submitted by the learned Government Pleader that in terms of order of the Commissioner passed vide proceedings Rc.No.C1/1359/2017 & W.C.No.18/2011 dated 9.1.2018, the Respondents have paid an amount of Rs.1,47,922/- through treasury on 8.2.2018 and the same has been deposited into the bank account of the petitioner. It is the further submission of the learned Government Pleader that the balance amount of Rs.7,00,000/- has been deposited in Corporation Bank by way of fixed deposit for a period of three years. It is the further submission of the learned Government Pleader that the Respondents have resorted to such action of depositing the amount as fixed deposit only in anticipation of any objections. It is the further submission of the learned Government Pleader that the action of the Respondents 1 and 2 is strictly in accordance with the provisions of Section 8 of Workmen's Compensation Act.

6. Resisting the said submissions, it is the contention of the learned counsel for the petitioner that having found that the petitioner herein is the sole dependent of the deceased, there is no justification on the part of the Respondent authorities in withholding the amounts.

7. Section 8 of the Workmen's Compensation Act, 1923 deals with distribution of compensation, which reads as under:

"8. Distribution of compensation.

(1) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made

directly by an employer shall be deemed to be a payment of compensation: Provided that, in the case of a deceased workman, an employer may make to any dependant advances on account of compensation not exceeding an aggregate of one hundred rupees, and so much of such aggregate as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner from such compensation and repaid to the employer.

(2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him.]

(4) On the deposit of any money under sub- section (1) as compensation in respect of a deceased workman] the Commissioner shall deduct] therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding fifty rupees] and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

(5) Compensation deposited in respect of a deceased workman shall, subject to any deduction made under sub- section (4), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

(6) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto.

(7) Where any lump sum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may

direct; and where a half- monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the workman or to any other person, whom the Commissioner thinks best fitted to provide for the welfare of the workman.

(8) Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case: Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

(9) Where the Commissioner varies any order under sub- section (8) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 31."

8. In the instant case, it is very much evident from a reading of the Order dated 9.1.2018 passed by the Commissioner for Employees Compensation and Joint Commissioner of Labour, Kurnool vide proceedings Rc.No.C1/1359/2017 & W.C.18/2011 that the Commissioner caused enquiry through the Assistant Commissioner, Kadapa and after obtaining report from the Assistant Commissioner, the Commissioner determined the persons eligible and entitled to receive compensation. It is also significant to note that even as per the said proceedings, the petitioner herein, who is the mother of the deceased, is shown as sole dependent. Yet another submission made by the learned Government Pleader is that the impugned

action covered by order dated 9.1.2018 is appealable under Section 30 of the Workmen's Compensation Act and in furtherance of the same, the learned Government Pleader places reliance on clause (c) of sub-section (1) of Section 30 of the Act. According to the said provision of law, the order providing for distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant is appealable.

9. In the instant case, even as per the proceedings dated 9.1.2018, the petitioner herein, who is the mother of the deceased, is the sole dependent and therefore question of distribution also does not arise, as such, the said provision of law cannot be pressed into service for sustaining the contention of the learned Government Pleader. Accordingly, the said contention is rejected. Therefore, this Court does not find any valid reason or justification on the part of the respondent authorities in withholding the amounts by way of fixed deposit.

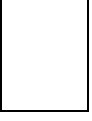
10. For the aforesaid reasons, the writ petition is allowed, directing the Respondents 1 and 2 to release the entire amount of compensation awarded by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Kadapa by order dated 19.4.2017 in W.C.No.18 of 2011 in favour of the petitioner herein within a period of one month from the date of receipt of this order. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 20.2.2018

Note:
Issue C.C. forthwith.

B/o
DA



THE HON'BLE SRI JUSTICE A.V.SESHA SAI



20.2.2018

DA