

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

C.M.A. No.712 of 2009

JUDGMENT:

This is an appeal filed against the order, dated 30.9.2008 passed by the Commissioner for Workmen Compensation and Deputy Commissioner of Labour, Kadapa in W.C. No.184 of 2005.

The applicant No.1 in W.C. is the elder brother of a deceased workman, (aged about 33 years on the date of filing the W.C.) and the applicants 2 and 3 are the minor children of the first applicant. They have filed the said W.C., for compensation for the death of the brother of the first applicant, by name Kurapati Kannaiah.

Both the parties went to trial and the Commissioner for Workmen Compensation after assessing the evidence and relevant legal aspects passed an order on 30.9.2008 awarding compensation of Rs. 2,63,758/- along with interest. This order is now assailed in the appeal, by the Insurance Company.

This Court has heard Sri E.Venugopal Reddy, learned Standing Counsel for the Insurance Company and Sri K.Rathanga Pani Reddy, learned Counsel for the respondents.

The short and simple question that is raised in this appeal is whether the first applicant in W.C./respondent No.1 in the appeal, who is an earning member and the elder brother of the deceased and his two minor children can maintain the application for

claiming compensation under Workmen's Compensation Act, 1923.

Learned counsel for the appellant urges and states that in the Workmen's Compensation Act, there is specific definition of the term 'dependant'. In fact, in the grounds of appeal, the definition for the term 'dependant' entitled to seek compensation as dependants is reproduced in terms of Section 2 (1) (d). Therefore, it is his contention that nobody other than people who are defined as 'dependant' can be allowed to claim for compensation.

On the other hand, learned counsel for the respondents argues that the respondents herein/applicants in W.C. are the legal representatives of the deceased workman and that there are no other legal representatives apart from the respondents herein. His contention is that a liberal interpretation should be given to the term 'dependant' and that the appeal should be dismissed.

Learned counsel for the appellant in reply to this point argues that Section 116 of Motor Vehicles Act adopts definition of legal representative, whereas Workmen's Compensation Act refers to only the "dependant" and not the legal representative. The learned counsel for the respondents/applicants in the WC argues that the term 'dependent' cannot be given a narrow legal meaning and that 'dependant' means anybody who has interest in the earnings of the deceased.

It appears that in the lower Court also the same issue was raised and argued. The Lower Court record shows that the case law that was cited in the Lower Court is under the Motor Vehicle

Act, that allows the legal representatives to file a case for compensation unlike under the Workmen's Compensation Act, which allows only the dependant to file a claim under Workmen's compensation.

After hearing both the counsel and on perusing the case law, this Court is of the opinion that respondent No.1/applicant No.1 in W.C., and his two minor children are not dependants as defined under the Workmen's Compensation Act. Therefore, they are not entitled to either file or to maintain the claim. If the interpretation advanced by the learned counsel for the respondents is taken into account, this Court would be circumventing and expanding the definition of 'dependant' which is not permissible under law.

For all the reasons, the appeal is allowed. The order/Judgment of the Lower Court is set aside. In the circumstances, no order as to costs.

Consequently, pending miscellaneous petitions, if any, this CMA shall stand closed.

Date: 26.02.2018
slk

D.V.S.S. SOMAYAJULU, J