

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.501 OF 2009

JUDGMENT:

The present Civil Miscellaneous Appeal, under Section 30 of the Workmen's Compensation Act, 1923, by The New India Assurance Company Limited, Hyderabad - Opposite Party No.2, is directed against the order dated 30.06.2005 passed by the learned Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Karimnagar, in W.C. No.25 of 2004, whereby an amount of Rs.3,09,337/- was awarded with interest at 12% per annum for the death of Guduri Narsaiah, Workman, employed under Opposite Party No.1 as driver on the Van bearing No.AP-28-K-8071.

2. Respondent No.1, applicant, is wife of the deceased workman Guduri Narsaiah.

3. Heard Sri Kota Subba Rao, learned counsel for the appellant - insurer, Sri Venkateshwar Varanasi, learned counsel for respondent No.1 - applicant, and Sri Y. Ramesh, learned counsel for respondent No.2 - opposite party No.1 (employer), and perused the order under challenge including the material on record.

4. The only ground urged in the present appeal is that the applicant was working in erstwhile Andhra Pradesh State Road Transport Corporation and the learned Commissioner completely failed to see the same and that award of interest at 12% per annum is not tenable.

5. Per contra, learned counsel for the applicant would support the order under challenge submitting that the evidence on record would clearly show that the deceased was employed under respondent No.2 - opposite party No.1.

6. The evidence of PW.1 and Exs.A-1 to A-3 besides Exs.A-4 to A-6 would clearly establish that the deceased, Guduri Narsaiah was employed by opposite party No.1 and the vehicle is insured with the appellant herein. When the stand taken by the applicant is that the deceased was employed under opposite party No.1, the entire burden rests on the appellant to prove the said statement of fact to exonerate it from its liability, in which direction, there is absolutely nothing on record. The appellant has not attempted to examine any witness at all nor there is anything in the cross-examination of PW.1 to substantiate the stand taken by it. In such an event, certainly, it cannot be said that there is any merit in the present appeal.

7. Therefore, the Civil Miscellaneous Appeal is dismissed confirming the order under challenge. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the present Civil Miscellaneous Appeal stand closed.

A. SHANKAR NARAYANA, J

June 13, 2018.

PV

