

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

C.M.A.NO.368 of 2008

JUDGMENT

This appeal is filed against the order dated 21.2.2008 passed in W.C.No.261 of 2005(F) by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Nalgonda.

The application was filed by T.Pallaiah, T.Lingamma and T.Renuka claiming compensation for the death of one Sri T.Saidulu who was working as helper on bore well lorry bearing No.AP-1!-D-2666 belonging to OP.No.1. On 14.5.2004, the deceased and others were engaged for digging a bore well in Southern Park Colony and they drilled upto two pipes level. Later, on 15.5.2004 the deceased and others drilled upto one pipe level and when sufficient water came out of the bore they stopped drilling work. In the meanwhile, there was passage of electric current besides the water and the deceased came into contact with the live electricity, fell down and died because of the said accident. Therefore, claiming compensation for this death, the father, mother and younger sister filed this case.

In the lower Court, one witness was examined for the applicants and Exs.A1 to A6 were marked. For the respondents, there was no oral evidence and only Ex.B1 copy of Insurance Policy was marked.

After considering the facts and circumstances, the Commissioner for Workmen's Compensation directed both OP.Nos.1 and 2 to pay compensation of Rs.3,36,000/-. It is this order that is assailed in this appeal.

This Court has heard Sri V.Srinivasa Rao, counsel for the appellant and Sri M.Venkat Ram Reddy, counsel for the respondents 1 to 3.

During the course of hearing, the only point that is argued was whether the Insurance Policy Ex.B.1 covers the accident in question.

It is the submission of the learned counsel for the appellant that the insurance policy does not cover the accident in question and that no premium is paid for the worker who was involved in this case. It is also the submission of the learned counsel that the worker died due to electrocution and as such the accident is not covered by the policy conditions. Therefore, the learned counsel submits that the impugned order deserves to be set aside.

In response thereto, the learned counsel for the respondents submits that the policy clearly covers the accident of the very same nature. He points that under Ex.B1, it is clearly mentioned that workmen's compensation to two employees is covered and the schedule of premium clearly shows that a sum of Rs.50/- was collected to cover any risk for two employees. It is also the submission of the learned counsel that the policy in question is 'Miscellaneous And Special Type of Vehicles Package Policy' which clearly covers the risk in question. Learned counsel also points out that in the policy itself IMT 17 is printed as the applicable condition. He drew the attention of this Court to the judgment of the Hon'ble Supreme Court of India wherein three Honourable Judges in the case of ***Hanumanagouda v. United India Insurance Company Limited and others***¹ held that when the

¹ 2014 (9) SCC 341

policy clearly mentions IMT 17 applies, all persons connected with the operation and/or loading unloading of motor vehicle are covered. The Hon'ble Supreme Court noticed the words and/or mentioned in Clause 17 and held that the coverage is not merely limited to people who are actually employed for the loading or unloading of the vehicle but covers all persons involved in the operation of the vehicle. By this process of interpretation, the Hon'ble Supreme Court held that the Gumastha/Clerk accompanying the goods in transit was also covered by the policy in question. This Court finds substantial force in the submissions made by the learned counsel for the respondents and holds that the judgment of the Hon'ble Supreme Court makes the issue very clear. This Court is of the opinion that there are no merits in the appeal.

In the result, the appeal is dismissed.

Pending miscellaneous petitions, if any, shall stand closed.

No order as to costs.

D.V.S.S.SOMAYAJULU,J

Date: 12/02/2018

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