

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

C.M.A.No.828 of 2007

JUDGMENT:

This appeal is filed by the insurance company against the order dated 29.03.2007 passed in WC No.4 of 2006 by the Commissioner for Workmen's Compensation and Asst. Commissioner of Labour, Adilabad.

The case of the applicant before the Commissioner was that the deceased S. Narsaiah died in a motor vehicle accident on 21.04.2004. He was engaged as a driver of the vehicle bearing No.AP1-T-7061 belonging to first opposite party and insured with second opposite party. The applicant states that as the injury occurred out of and in the course of employment, opposite parties 1 & 2 are liable for compensation along with interest.

The first opposite party remained *ex parte* before the Commissioner. The second opposite party denied the allegations of the case.

For the applicant, one witness was examined and Exs.A.1 to A.5 were marked. For the opposite parties, no oral or documentary evidence was introduced. After hearing the parties, the learned Commissioner came to a conclusion that opposite parties 1 & 2 are jointly and severally liable to pay a sum of Rs.3,06,483/- along with interest. It is this order dated 29.03.2007 is now assailed in the appeal.

This Court heard Sri N. Mohan Krishna, learned counsel for the appellant/insurance company and Sri S. Surender Reddy, learned counsel for the first respondent/applicant and S. Anil Kumar, learned counsel for the second respondent/first opposite party.

The essential issues that are urged before this Court are that the employee and employer relationship is not proved and that the award of interest is not legally or contractually valid.

This Court finds that Exs.A.1 & A.2 which are the FIR and inquest report clearly show that the deceased met with an accident while he was working as driver on the vehicle bearing No.AP1-T-7061. Even Ex.A.4-MVI report clearly shows that the deceased was a driver of the vehicle in question. These are contemporary documents. The opposite parties did not introduce any positive evidence to enable this Court to overlook the contents of Exs.A.1 & A.2. These two documents are important documents which mentioned that the deceased was the driver. If the respondents particularly the present appellant wants this Court to believe that the deceased was not a driver or in the employment of first opposite party, they should have introduced some positive evidence to that effect. In the absence of any oral and documentary evidence from the side of opposite parties 1 & 2, this Court holds that the deceased was a driver in the employment of first opposite party on the faithful day.

The learned counsel for the applicant fairly did not argue on the other aspects of the case, like wages, age etc. He only argued that interest awarded is not correct and is contrary to law. This Court finds that the Commissioner while awarding compensation relied upon the provisions of Workmen's Compensation Act; the judgment of the Hon'ble Supreme Court in ***Ved Prakash Garg v. Premi Devi and others***¹ and also the subsequent decisions of this Court, which clearly permit the award of interest. This Court therefore holds that there is no infirmity committed by the Commissioner in awarding interest in this case.

For all the above reasons, the order dated 29.03.2007 in W.C.No.4 of 2006 passed by the Commissioner for Workmen's Compensation is upheld. This Court holds that there are no merits in the appeal. The appeal is accordingly dismissed. However, there shall be no order as to costs. As a sequel, miscellaneous petitions, if any, pending in this appeal shall stand closed.

D.V.S.S. SOMAYAJULU, J

Date: 06.04.2018
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¹ AIR 1997 SC 3854