

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

C.M.A.No.1052 OF 2009

JUDGMENT:

Challenging the order, dated 11.04.2005, passed in W.C. Case No.21 of 2004 on the file of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour – II Circle, Guntur, whereby and whereunder, a sum of Rs.1,15,128/- was granted as compensation, assessing the disability at 30% and by taking the age of the appellant as 44 years and applying the wages under Minimum Wages Act, as the appellant appears to be a lorry driver and sustained injuries by a fall from the lorry during the course of employment, the present appeal is preferred, under Section 30 of the Workmen's Compensation Act, 1923, seeking enhancement.

2. Heard Sri V. Subramanyam, learned counsel for the appellant-applicant, and Sri T. Ramulu, learned Standing Counsel for respondent No.2 – opposite party No.2. The present appeal was dismissed for default against respondent No.1 – opposite party No.1 on 04.08.2009.

3. The evidence of Doctor would not improve the claim of the appellant herein. In fact, the Commissioner has taken 30% as the partial permanent disability, as assessed by the Doctor, who was examined as AW.2. The Commissioner also held that there is no material worth to prove that the appellant was paid Rs.8,000/- towards monthly wages. Further, it is neither a case where there has been

reduction in the size of the lower limb nor it is a case of any amputation. In such an event, certainly, the order under challenge does not suffer from any legal infirmity, so far as the loss of earning capacity is concerned. But, however, the appellant is entitled to interest at 12% per annum from the date of accident, as against 8% per annum awarded by the Commissioner.

4. Thus, the appeal is allowed in part and the order under challenge is modified only to the extent of awarding interest at 12% per annum from the date of accident, as against 8% per annum awarded by the Commissioner.

Miscellaneous Petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

June 15, 2018.
MD

A. SHANKAR NARAYANA, J