

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.4135 OF 2003

JUDGMENT:

This appeal is filed by the appellants-claimants under Section 30 of the Workmen's Compensation Act, 1923, aggrieved by the order, dated 30.07.2003, in W.C.No.204 of 2002, passed by the Assistant Commissioner of Labour, Nizamabad.

2. Heard learned counsel for the appellants, the learned standing counsel for the Insurance Company and perused the record.

3. Learned counsel for the appellants would submit that the Assistant Commissioner of Labour, Nizamabad, granted meagre compensation of Rs.1,97,060/- on account of death of Shaik Shadullah, who died in a motor accident while driving the DCM Van bearing No. AP 11 U 3252. He was a work man under respondent No.1. The respondents are owner and insurer of the crime vehicle. The appellants were depending on the deceased. The calculation made by the Assistant Commissioner of Labour is erroneous and not in consonance with the record and settled legal principles. The award was against claim of Rs.5,00,000/- and ultimately, prayed to enhance the same.

4. On the other hand learned counsel for the respondent-Insurance Company would submit that the Assistant Commissioner of Labour had granted compensation based on the evidence on record. The date of accident is 06.11.2001. Therefore, G.O.Ms.No.30, Labour, Employment Training and Factories (LAB-II), dated 27.07.2000, which came into effect from the date of G.O.

has application and ultimately, prayed to dismiss the appeal.

5. There is no dispute that the deceased was a work man. There is also no dispute with regard to his death in a motor accident. The only dispute is with regard to quantum of compensation awarded.

6. Learned counsel for the appellants relied on a decision reported in **MOHD. AMEERUDDIN AND ANOTHER V UNITED INDIA INSURANCE COMPANY LIMITED AND ANOTHER** ¹ and contended that monthly earnings of the deceased are required to be taken as Rs.4,000/-. It is also contended that no interest was awarded on the compensation amount.

7. In view of submissions made by both sides, the point for determination is whether the appellants are entitled for enhancement of compensation as prayed for?

8. Learned counsel for the Insurance Company relied on G.O.Ms.No.30, Labour, Employment Training and Factories (LAB-II), dated 27.07.2000, wherein the monthly salary of the deceased was required to be taken as Rs.1,874/- + Variable Dearness Allowance at Rs.560/-. In total, it requires to be taken as Rs.2,434/-, whereas the Assistant Commissioner of Labour has taken Rs.2,000/- per month. In view of the facts and circumstances of the case, the wages payable shown in the aforementioned G.O. are required to be taken to assess the compensation payable to the dependants of the deceased. When there is a specific G.O. to take the wages into account, the decision relied on behalf of the appellants, cannot be relied upon. Therefore, it is just and reasonable to calculate the

¹ (2011) 1 SCC 304

compensation payable to the appellants as hereunder.
 $\text{Rs.}2,434/- \times 50/100 \times 197.06 = \text{Rs.}2,39,822/-$. The appellants are also entitled to interest at the rate of 12% p.a. on the said amount as per the settled legal principles.

9. In the result, the compensation awarded by the Assistant Commissioner of Labour, Nizamabad, is enhanced from Rs.1,97,060/- to Rs.2,39,822/- with interest at 12% p.a. on the enhanced compensation amount from the date of petition till the date of realization.

10. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

DATED: 04-06-2018
Hsd

DR.SHAMEEM AKTHER, J

