

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
CIVIL MISCELLANEOUS APPEAL No. 2458 of 2004

JUDGMENT:

Dissatisfied with the quantum of compensation of Rs.1,99,233/- awarded by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Nizamabad, vide order, dated 22.07.2003, passed in W.C.No.232 of 2003, as against the total claim of Rs.5,00,000/-, the applicant preferred this appeal under Section 30 the Workmen's Compensation Act, 1923, seeking enhancement of compensation.

2. Heard the learned counsel for the appellant-applicant, the learned Standing Counsel for New India Assurance Company Limited representing the 2nd respondent and perused the record.

3. The learned counsel for the appellant-applicant would submit that the Assistant Commissioner of Labour, Nizamabad, has taken the monthly salary of the appellant-applicant as Rs.1,800/- though the appellant-applicant was earning more than Rs.2,000/- per month. Percentage of disability suffered by the appellant-applicant was also assessed very low. Further, no interest on the amount of compensation awarded was granted by the Assistant Commissioner of Labour, Nizamabad, and ultimately prayed to allow the appeal as prayed for.

4. On the other hand, the Standing Counsel for New India Assurance Company Limited representing the 2nd respondent

would submit that the Assistant Commissioner of Labour, Nizamabad, has taken all the relevant factors into consideration and awarded just and reasonable amount as compensation. There is nothing to vary the same and ultimately prayed to dismiss the appeal.

5. There is no dispute that the appellant-applicant filed an application before the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Nizamabad, seeking compensation on account of death of his son – Bhupathi in a accident that occurred on the intervening night of 11.05.2002/12.05.2002, while discharging his duties as labourer under respondent No.1. As seen from the impugned order, no interest was awarded by the Assistant Commissioner of Labour, Nizamabad, on the compensation amount of Rs.1,99,233/-. On evidence, the Assistant Commissioner of Labour, Nizamabad, had taken the monthly wage of the deceased as Rs.1,800/-, age as 22 years, age factor as 221.37 and awarded a total compensation of Rs.1,99,233/- taking into consideration correct age and income . In view of the medical evidence on record, the Assistant Commissioner of Labour, Nizamabad, rightly awarded a compensation of Rs.1,99,233/-. The findings of the Assistant Commissioner of Labour, Nizamabad, are based on record and there is nothing to take a different view. However, the Assistant Commissioner of Labour, Nizamabad, did not award any interest on the amount of compensation. Therefore, the appellant-applicant is entitled for interest at the rate of 12% per annum on the compensation of

Rs.1,99,233/- from the date of filing of the application before the Assistant Commissioner of Labour, Nizamabad, till the date of realisation.

6. Accordingly, the Civil Miscellaneous Appeal is allowed in part granting interest at the rate of 12% per annum on the amount of compensation of Rs.1,99,233/- from the date of filing of the application before the Assistant Commissioner of Labour, Nizamabad, till the date of realisation. The other terms of the order under challenge remain unaltered.

Miscellaneous Petitions pending, if any, shall stand closed.

No order as to costs.

04th June, 2018
Bvv

Dr. Shameem Akther, J

