

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**WEDNESDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY ONE**

PRESENT

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL MISCELLANEOUS APPEAL NO: 84 OF 2014

Appeal Under Section 30 of W.C. against the Judgment in W.C.No.285 of 2007 dated 16.08.2010 on the file of the Court of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour-I, T. Anjaiah Karmika Samkshema Bahavanam, RTC Cross Roads at Hyderabad.

Between:

The Oriental Insurance Company Ltd. Rep by its Senior Divisional Manager,
2nd Floor, Pavani Plaza, Khairatabad, Hyderabad.

...APPELLANT/OPPOSITE PARTY No.2

AND

1. Sri Lakki Sahu, S/o. Sri Pyare Lal, Occ: Driver, Presently residing at Kumatpally, IDA, Ranga Reddy District.

...RESPONDENT/APPLICANT

2. Sri Vinod Kumar Bhagwar, S/o. Sri S.H. Munnalal Bhagwar, R/o. Baanupur Village, Mahrowni Tq., Lalithapur District, Uttar Pradesh State

...RESPONDENT/OPPOSITE PARTY No.1

Counsel for the Appellant: SRI. M SATISH REDDY

Counsel for the Respondent No.1: SRI. A. MADHAVA REDDY

The Court delivered the following: JUDGMENT

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

C.M.A. No. 84 of 2014

JUDGMENT:

This Appeal is filed by the Oriental Insurance Company Limited against the order dated 16.08.2010 passed by the Commissioner for Employees' Compensation and Assistant Commissioner of Labour-I, Hyderabad (hereinafter referred to as 'the Commissioner') in W.C.No.285 of 2007.

Learned Standing Counsel for the appellant submits that the Commissioner had no jurisdiction to decide the W.C. case. He further submits that though A.W.2-Doctor assessed the disability of respondent No.1-applicant at 30%, the Commissioner has assessed the loss of earning capacity of respondent No.1 at 50%, which is contrary to the medical evidence. He further submits that respondent No.1 being the native of Uttar Pradesh and the vehicle involved in the accident having been registered at Uttar Pradesh, the Commissioner at Uttar Pradesh alone had the jurisdiction. He also submits that respondent No.1 renewed his license after the accident, as such, it can be understood that he was able to discharge the functions as a Driver and there was no impediment to his occupation and thereby, assessment of 50% as loss of earning capacity is unsustainable.

On the other hand, learned counsel for respondent No.1 submits that in view of the amended provisions of Section 21 of the Workmen's Compensation Act, 1923, the Commissioner at

Hyderabad had jurisdiction and further, the loss of earnings assessed by the Commissioner at 50% is reasonable and the same is within the discretion of the Commissioner.

At the outset, it may be noted that Section 21 of the Act, as amended with effect from 25.09.1996, confers jurisdiction on the Commissioner where the accident took place, which resulted or where the workmen or in case of his death, the dependant claiming the compensation ordinarily resides or the employer has his registered Office.

In the present case, as the address shown by respondent No.1 was at Kukatpally, the Commissioner at Hyderabad had jurisdiction. As the question of fact is determined by the Commissioner, in view of limited scope of Appeal, on the question of law, this Court is not inclined to give a contra finding. In this view of the matter, the contention of the learned counsel for the appellant that the Commissioner at Uttar Pradesh alone had jurisdiction is rejected.

Further, as against 30% disability assessed by A.W.2, the Commissioner had assessed the loss of earning capacity at 50%. However, as there is no dispute that respondent No.1 sustained a fracture injury, as evident from the wound certificate and as he would not be able to discharge his functions as a Driver in an effective manner, assessment of loss of earning capacity to the extent of 50% cannot be said to be unreasonable.

The fact that the license is renewed subsequently, at best, would show that respondent No.1 would be able to drive the vehicle, but, it cannot be gainsaid that there would not be some element of apprehension, while discharging the functions as a Driver. It may be noted that there will always be an element of apprehension, which would hinder and hold the person in discharging his duty, which he was carrying on prior to the accident. In this view of the matter, the contention of the learned Standing Counsel for the appellant that there was no impediment for respondent No.1 with respect to his occupation is liable to be rejected.

Therefore, the order under Appeal does not call for interference by this Court.

Hence, the Appeal is dismissed.

Miscellaneous petitions, if any pending shall stand dismissed.

There shall be no order as to costs.

//TRUE COPY//

Sd/- K.SRINIVAS RAO
JOINT REGISTRAR



SECTION OFFICER

To,

1. The Commissioner for Employee's Compensation and Assistant Commissioner of Labour-I, T. Anajalah Karmika Samkshema Bahvanam, RTC Cross Roads a Hyderabad.
2. One CC to Sri. M. Satish Reddy, Advocate [OPUC]
3. One CC to Sri. A. Madhava Reddy, Advocate [OPUC]
4. Two CD Copies

gbr



HIGH COURT

DATED: 17/03/2021

JUDGMENT

CMA.No.84 of 2014



DISMISSING THE APPEAL

ATM (5)
27/4/2021