

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SMT. JUSTICE P.MADHAVI DEVI

CIVIL MISCELLANEOUS APPEAL No.816 OF 2007

AND

CIVIL MISCELLANEOUS APPEAL No.797 OF 2007

CIVIL MISCELLANEOUS APPEAL No.816 OF 2007

Appeal Under Section 30 of W.C. Act against the order/decrees in W.C.No.2 of 2004 dated 20.07.2006 on the file of the Court of the Before the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour at Patancheru, Ranag Reddy District.

Between:

The United India Insurance Company Limited, Rep. by Its Senior Divisional Manager, D.O.XI, Tirumala Towers, Malakpet, Hyderabad

...APPELLANT/OPPOSITE PARTY NO.2

AND

1. Sri T. Balalah, S/o.T. Nagaiah, aged 31 years, Occ: Labourer R/o.Bollarum, Medak District.

...RESPONDENT/APPLICANT

2. Mr. Ravinder Goud, S/o.Not known to the Appellant, aged Major, Occ: Business R/o.H.No.14-2-743, Yakutpura, Hyderabad.

(R-2 dismissed for default vide Court Order dated 30.03.2016)

...RESPONDENT/OPPOSITE PARTY NO.1

CIVIL MISCELLANEOUS APPEAL NO: 797 OF 2007

Appeal Under Section 30 of W.C. Act against the order/decrees in W.C.No.1 of 2004 dated 20.07.2006 on the file of the Court of the Before the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour at Patancheru, Ranag Reddy District.

Between:

The United India Insurance Company Limited, Rep. by its Senior Divisional Manager D.O.XI, Tirumala Towers, Malak Pet, Hyderabad

...PETITIONER

AND

1. Sri P. Narasimha, S/o.Sri Jangaiah, aged 31 years, Occ: Labourer R/o.Bollarum, Medak District.
2. Mr. Ravinder Goud, S/o.Not known to the Appellant, aged Major, Occ: Business R/o.H.No.14-2-743, Yakutpura, Hyderabad.

(R-2 dismissed for default vide Court Order dated 30.03.2016)

...RESPONDENTS

Counsel for the Appellant in both
CMA.Nos.816 & 797/2007: Sri A. Ramakrishna Reddy for Sri E. Venugopal Reddy

Counsel for the Respondent in both cases No.1: SRI V. ATCHUTA RAM

The Court delivered the following: COMMON JUDGMENT

THE HONOURABLE SMT. JUSTICE P. MADHAVI DEVI

CIVIL MISCELLANEOUS APPEAL NO.816 OF 2007

AND

CIVIL MISCELLANEOUS APPEAL NO.797 OF 2007

COMMON JUDGMENT

These Appeals are filed by the insurance company against the separate decrees and judgments dt.20.07.2006 passed in W.C.No.2 of 2004 and W.C.No.1 of 2004 on the file of the Commissioner for the Workmen's Compensation and Assistant Commissioner of Labour, Patancheru.

2. Brief facts leading to the filing of these Appeals are that respondent No.1 in C.M.A.No.816 of 2007 and respondent No.1 in C.M.A.No.797 of 2007 are both labourers who were employed by respondent No.2, the owner of lorry bearing No.AAT 4256. On 04.03.1998, an accident occurred, in the course of which respondent Nos.1 in both the Appeals, sustained grievous injuries. Accordingly, they filed Workmen's Compensation Cases before the Commissioner for the Workmen's Compensation and Assistant Commissioner of Labour, Patancheru and the Commissioner awarded the compensation of Rs.74,281/- in W.C.No.2 of 2004 and Rs.1,47,743/- in W.C.No.1 of 2004. Aggrieved by the award of compensation, the insurance company is in Appeal before this Court by raising the following grounds:

- (1) *The Judgment and decree passed by the Commissioner for the Workmen's Compensation and Assistant Commissioner of Labour, Patancheru is contrary to law, weight of evidence and probabilities of the case.*
- (2) *The Commissioner ought to have held that there is no liability on the appellant when the owner of the vehicle failed to appear before the Commissioner.*
- (3) *The Commissioner erred in appreciating the evidence that the injury did not result out of any use of the vehicle and only due to the negligence on the part of the other lorry.*
- (4) *The Commissioner erred in appreciating the fact that the risk of the labourer is not covered under Ex.B-1, which was deposited by RW-1.*
- (5) *The Commissioner ought to have fastened the liability on the owner of the vehicle, as he did not pay any premium seeking coverage of the risk of the labourer being carried in the vehicle.*
- (6) *The Commissioner erred in appreciating the legal position as decided in various authoritative judgments.*
- (7) *The Commissioner failed to appreciate the fact that the disability as assessed by the Doctor is not in accordance with the provisions of the W.C.Act.*
- (8) *The Commissioner erred in fixing the income of the injured @ Rs.1299/- per month*
- (9) *The Commissioner ought to have dismissed the application as the injury did not happen out and in the course of employment of opposite party No.1.*
- (10) *The Commissioner ought to have held that there is no employee and employer relationship between the injured and the owner of the vehicle when there is no insurable interest.*
- (11) *The Commissioner erred in fixing the income of the injured at Rs.1299/- per month in the absence of any documentary evidence.*
- (12) *The Commissioner erred in awarding the claim without any basis*

(13) *The Commissioner had awarded excessive compensation to the respondents without any basis.*

(14) *Other grounds will be urged at the time of the hearing of the appeal.*

The above grounds are common in both the Appeals except for the quantum awarded to each of the workman.

3. At the time of hearing, Sri A. Ramakrishna Reddy, learned counsel representing Sri E. Venugopal Reddy, learned counsel for the appellant in both the Appeals, submitted that as other issues are already covered by various decisions of this Court as well as the Apex Court in favour of the workmen, the appellant is mainly arguing on Ground No.5, i.e., where extra premium has not been paid by the owner of the vehicle, the insurance company is not liable. After hearing both the parties, this Court finds that in similar matter in C.M.A.No.800 of 2005, this Court *vide* the Judgement of even date, has held as under:

"6. Having regard to the rival contentions, this Court finds that the decision of this Court in the case of New India Assurance Co. Ltd., Kadapa Vs. Pujala Chenchu Nagaiah and others (3 supra) is distinguishable on facts as in that case the deceased was a cleaner of the vehicle, whereas in the case on hand, the deceased was a labourer and his case is clearly covered by the decision of the Hon'ble Supreme Court in the case of National Insurance Company Limited Vs. Jugal Kishore and others (1 supra) as well as the decision of this Court in the case of New India Assurance Co. Ltd., Kadapa Vs. Pujala Chenchu Nagaiah and others (3 supra). Admittedly, in this case, the policy did not include the risk of the labourer and the owner had not

paid any extra premium to cover the persons other than the driver and the cleaner. In such cases, the owner of the vehicle shall be responsible for the injury caused to the third party. However, the insurance company would have to make the payment of compensation to the claimants under the Workmen's Compensation and thereafter recover from the owner of the vehicle, who has breached the conditions of the policy, as held by this Court in the case of New India Assurance Co. Ltd., Kadapa Vs. Pujala Chenchu Nagaiah and others (5 supra). Therefore, the Appeal of the insurance company as against respondents 1 to 6 is dismissed.....

7. The Civil Miscellaneous Appeal is accordingly dismissed. No order as to costs.

4. Since the facts and circumstances in these cases are also similar to that of the above case i.e. C.M.A.No.800 of 2005 and for the said reasons therein, these Civil Miscellaneous Appeals filed by the insurance company are dismissed. No costs.

5. Pending miscellaneous petitions, if any, in these CMAs shall also stand dismissed.

//TRUE COPY//

SD/-K.SRINIVASA RAO
JOINT REGISTRAR

SECTION OFFICER

To,

1. The Commissioner for Workmen's Compensation and Assistant Commissioner of Labour at Patancheru, Ranga Reddy District. (with records)
2. One CC to Sri E. Venugopal Reddy, Advocate [OPUC]
3. One CC to Sri V. Atchuta Ram, Advocate [OPUC]
4. Two CD Copies
5. One Spare Copy

gbr

V. S. R.

HIGH COURT

DATED: 31/12/2021



COMMON JUDGMENT

CMA.Nos.816 and 797 of 2007

DISMISSING THE BOTH APPEALS
WITHOUT COSTS

⑥ VLV
11/3/22