

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

**THURSDAY, THE THIRD DAY OF JUNE
TWO THOUSAND AND TWENTY ONE**

PRESENT

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL MISCELLANEOUS APPEAL NO: 3778 OF 2003

Appeal Under Section 30 of Workmen's Compensation Act against the Order in W.C.No.128 of 1999 dated 07.01.2003 on the file of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Khammam.

Between:

Oriental Insurance Co. Ltd., Branch Office Vijayawada, rep. by Branch Manager, through its Regional Office, Begumpet, Hyderabad rep. by its Assistant Manager

...APPELLANT/OP-2

AND

1. Md.Sarwar, s/o.Mohinuddin, aged about 37 years, Occ: driver of Lorry AP 36T 7529, R/o.Bhupala Pally Village, Warangal District, A.P.
2. Syed Chand Pasha, s/o.Galib, aged: Major, Occ: Vehicle Business & Owner of Lorry AP 36T 7529, R/o.Paritala Village, Kanchikacherla Mandal, Krishna District, A.P.

...RESPONDENTS

Counsel for the Appellant: SRI. A. V. K. S. PRASAD

Counsel for the Respondent No.1: SRI G. JAGADEESWAR

Counsel for the Respondent No.2: SRI T. RAVI KUMAR

The Court delivered the following: JUDGMENT

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

C.M.A. No. 3778 OF 2003

J U D G M E N T:

This Appeal by the Insurance Company is against the Award dated 07.01.2003 in W.C. No. 128 of 1999 on the file of the Assistant Commissioner of Labour at Khammam.

The applicant had taken up the above-said case claiming that he worked as an employee - driver under the 2nd respondent, during the course of which, on 18.07.1998, he met with an accident and sustained injuries. It is further claimed that he was aged about 38 years at the time of accident and was earning Rs.2200/- per month. The Assistant Commissioner, after going through the evidence adduced i.e. P.Ws.1 and 2 and Exs.A1 to A8 on behalf of the applicant and also R.W1 and Exs.R1 and R.2 on behalf of the Insurance Company, held that employer-employee relationship was established and the factum of occurrence of accident was also established. It was further held that the extent and nature of injuries was established through Ex.A4 - X-ray report and based on the evidence of P.W.2-doctor and Ex.A8 - disability certificate, disability was arrived at 55%. In terms of G.O.Ms.No. 71, dated 16.04.12991, minimum wages were taken as Rs.2336/- and compensation was awarded at Rs.1,41,724/- with corresponding interest in terms of Section 4-A(3) of the Workmen's Compensation Act, 1923, as amended with effect from 30.08.1995.

Learned Standing Counsel for the appellant - insurance company submits that the Commissioner had erred in taking the monthly wages as Rs.2336/- instead of Rs.2,200/-, as admitted by

the owner of the vehicle and in properly appreciating the evidence of P.W.2 doctor and thus, assessment of partial disability could not have been 55%. Granting of compensation in view of the above is unreasonable and liable to be interfered with, is what argues the learned Standing Counsel.

Learned counsel for the applicant submits that the amount awarded is just and reasonable for the injuries suffered by his client and hence, no indulgence of this Court is needed in this Appeal.

In view of the arguments of the learned counsel and in the fact situation, as referred to supra, the contentions raised by the Insurance Company are pure questions of fact and in terms of Section 30 of the Act, scope of Appeal being limited to the questions of law, this Court does not find any reason to interfere with the findings of fact recorded by the Authority. So far as the discrepancy with regard to the wage is concerned, inasmuch as it is a common practice to pay batta to the driver in addition to the salary, awarding of minimum wages at the said rate is justified.

In that view of the matter, the Award of the Authority does not call for any interference. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.

Miscellaneous Petitions, if any stand closed.

SD/- B.S. CHIRANJEEVI
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Khammam. (with record)
 2. One CC to Sri A. V. K. S. Prasad, Advocate [OPUC]
 3. One CC to Sri T. Ravi Kumar, Advocate [OPUC]
 4. One CC to Sri G. Jagadeeswar, Advocate [OPUC]
 5. Two CD Copies
 6. One Spare Copy
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HIGH COURT

DATED: 03/06/2021

JUDGMENT

CMA.No.3778 of 2003



DISMISSING THE APPEAL

NO COSTS

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LEMA
29/6/2021