

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

**WEDNESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

CIVIL MISCELLANEOUS APPEAL NO: 1207 OF 2005

Appeal under Section 30 of Workmen's Compensation Act against the Decree in W.C. No. 32 of 1997 of dated 05-02-2000 on the file of the Assistant Commissioner of Labour, Ranga Reddy District Circle II, Hyderabad.

Between:

SRI P.BUCHAIAH HYD, S/o.Late Sathaiah, Aged 40 years, R/o. Veliminedu [V] Chityal Mandal, Nalgonda District. C/o.Sri K.Jagathpal Reddy, Advocate

...APPELLANT

AND

1. A.SRINIVAS REDDY NALGONDA&ANR, S/o.A.Laxma Reddy R/o.Veliminedu [V], Chityal Mandal, Nalgonda District. C/o.K.Satyanarayana, Advocate R/o.H.No.17-33, Near Subhodaya high School, Saibaba Temple Street, Dilsukhnagar, Hyderabad.
2. United India Insurance Co Limited, C/o.Sri B.Ravinder Kumar, Advocate 4-1-871, Tilak Road, Hyderabad.

(Appeal against Respondent No.2 dismissed for default vide court order dated 16-09-2005)

...RESPONDENTS

Counsel for the Appellant: SRI CH. JANARDHAN REDDY, ADVOCATE

Counsel for the Respondent No.2: SRI SRINIVASA RAO VUTLA, ADVOCATE

The Court made the following: JUDGMENT

HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU

C.M.A.NO.1207 of 2005

JUDGMENT:

Being aggrieved by the award in W.C.No.32 of 1997 on the file of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Ranga Reddy District, Circle-II, Hyderabad, where under, the learned Commissioner awarded a sum of Rs.1,46,872/- as compensation, the applicant therein preferred the present C.M.A. with a prayer to enhance the compensation by Rs.1,03,720/- in addition to the amount already awarded.

2. In the grounds of appeal, the appellant has claimed that the learned Commissioner failed to pass an award for appropriate amount inspite of clear admission of owner of the vehicle that he was paying a sum of Rs.70/- per day and the learned Commissioner considered the income of the deceased as Rs.1,299/- per month on the basis of minimum wages thereby, according to the appellant, he is entitled to another sum of Rs.1,03,720/-.

3. As per the order of the learned Commissioner, it shows that the Commissioner who found that the deceased Ravi Kumar who was working as cleaner on a lorry bearing No.AP 28T 6639 which belongs to the first respondent/opposite party No.1 covered under scheduled employment under M.W.Act of Public Motor Transport vide G.O.Ms.No.71 dated 16-04-1991 and considered the income of the deceased as Rs.1,299/- per month and awarded the compensation.

4. In the present appeal, the appellant has claimed that the deceased was working as cleaner on the lorry of the first respondent/opposite party No.1 and the first respondent has informed the Court that he was paying Rs.70/- per day thereby, the monthly income of the deceased shall be considered as Rs.2100/- per month and on that basis, the appellant sought for enhancement of the compensation.

5. As could be seen from the order of the learned Commissioner, which is under challenge in the present appeal, the first respondent/opposite party No.1, who was examined as RW.1 deposed before the Court that the deceased was working as cleaner on his lorry and that he used to pay Rs.70/- per day. In the cross-examination by the insurance company, he has admitted

that he sold the lorry to one Lingaiah after the accident. He did not file any document to show the employment and he did not file any proof about the salary, he used to pay to the deceased. Therefore, in view of the above admissions, the learned Commissioner did not consider the evidence of RW.1 and decided the compensation on the basis of G.O.M.S.No.71 referred above.

6. The evidence placed before the Commissioner clearly shows that there is no acceptable evidence about the salary/wages said to have been paid by first respondent to the deceased. It was elicited from RW.1 that soon after the accident, he sold the lorry to the third party. Therefore, there is every possibility of RW.1 deposing false only to help the claimants/applicants and in the absence of any proof or acceptable evidence that RW.1 was paying Rs.70/- per day, the finding of the learned Commissioner shall be considered. According to the record, the accident took place in February, 1997 i.e., about 25 years ago. Therefore, the contention of RW.1 that he was paying Rs.70/- per day cannot be accepted. The learned Commissioner rightly relied on G.O.M.S.No.71 for deciding the compensation. Therefore, I did not find any merits to enhance the compensation thereby, the appeal is liable to be dismissed.

7. In the result, the appeal is dismissed.

Consequently, Miscellaneous applications if any, are closed.

No Costs.

//TRUE COPY//

SD/- B.S.CHIRANJEEVI
JOINT REGISTRAR

SECTION OFFICER

To,

1. The Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Ranga Reddy District Circle II, Hyderabad.
2. One CC to SRI CH. JANARDHAN REDDY, Advocate [OPUC]
3. One CC to SRI SRINIVASA RAO VUTLA., Advocate [OPUC]
4. Two CD Copies

BN

HIGH COURT

DATED:17/08/2022

JUDGMENT

CMA.No.1207 of 2005



DISMISSING OF THE CMA,
WITHOUT COSTS

⑥ copies

[Signature]
30/12/2022