

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

**FRIDAY, THE TWENTY NINTH DAY OF JULY
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

CIVIL MISCELLANEOUS APPEAL NO: 779 OF 2007

Appeal filed Under Section 30 of Workmen's Compensation Act against the Order in WC No.111 of 2005 dated 09.04.2007 on the file of the Commissioner for Workmen's Compensation & Assistant Commissioner of Labour-I, T. Anjaiah Karmika Sankshema Bhavan, RTC Cross Roads, Hyderabad.

Between:

National Insurance Company Ltd., represented by its Divisional Manager, Divisional Office, Chenoy Trade Centre, Secunderabad.

...APPELLANT/2nd OPPOSITE PARTY

AND

1. A.Prameela, W/o.late A.Siddagoud, aged 39 years, Occ: Housewife
2. A.Shankar, S/o.late A.Siddagoud, aged 22 years, Occ: Student
3. A.Krishna, S/o.late A.Siddagoud, aged 21 years, Occ: Student

Respondents 1 to 3 are R/o.Balanagar, Hyderabad.

...RESPONDENTS/APPLICANTS

4. A.Narsagoud, S/o.Siddagoud R/o.1-2-55, Fathenagar, Medak.

(Appeal against R-4 dismissed for default vide Court Order dated 30.03.2016)

...RESPONDENT/1st OPPOSITE PARTY

Counsel for the Appellant: SRI N. J. SUNIL KUMAR

Counsel for the Respondent Nos.1 to 3: C. BUCHI REDDY

The Court delivered the following: JUDGMENT

THE HON'BLE SRI JUSTICE SAMBASIVA RAO NAIDU

C.M.A.No.779 of 2007

JUDGMENT :

The appellant herein is the second opposite party in W.C.No.111 of 2005 on the file of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour-I. The appeal is preferred against the order in the above referred Workmen's Compensation case by which the Court below awarded a sum of Rs.2,77,677/- towards compensation in favour of the respondents herein.

2. The above referred case arose on account of the death of one A.Siddagoud in a road accident. The respondents No.1 to 3, who are no other than wife and children of said Siddagoud, who herein after will be referred as deceased filed the said case and sought for compensation.

3. They have filed the said case on the ground that the deceased was working as a driver on a Van bearing No. AP 10T 2043 which belongs to respondent No.4 herein and who was shown as 2nd respondent in the case filed by them. According to the petition filed by the respondents No.1 to 3/applicants No.1 to 3, they have pleaded that on 30.05.2004, the deceased was proceeding on the said van

with chicken load from Hyderabad to Medak, and when he reached Pothamchettipally cross roads, he lost control over the van and dashed a lorry bearing No.AP 23V 4063 due to which, fire arose from the engine of the van and he suffered burn injuries, subsequently, succumbed to the injuries while undergoing treatment. The respondents/applicants have pleaded that the deceased was a workman within the meaning of Workmen's Compensation Act. Thereby, they prayed for compensation from the owner of the vehicle as well as the insurance company from which the owner obtained a policy against the vehicle. The first opposite party remained ex parte. Insurance company which filed the present appeal filed counter, disputed the allegations made by the applicants and after considering the oral and documentary evidence as well as the arguments of the respective counsel, the Commissioner passed an award as referred above.

4. The present appeal is filed on the ground that the findings of the Commissioner are grossly wrong since he failed to appreciate Ex.A9 which clearly shows the deceased was the co-owner of the offending vehicle. The deceased is no other than the son of opposite party and being co-owners, respondents/applicants cannot claim compensation from the

opposite party, thereby, the insurance company is not liable to pay any compensation amount, as such sought for setting aside the order.

5. I have heard both parties.

6. Now the point for consideration is :

Whether the order of the Commissioner by which compensation was awarded in favour of the respondents/applicants is incorrect, liable to be set aside as prayed for ?

7. The learned counsel for the appellant has submitted that since the respondents/applicants filed a petition for compensation, they have to prove their case and there is no necessity for the present appellant to disprove the claim of the applicants. Ex.A9- Registration Certificate of the vehicle clearly shows two names including the name of deceased, which is nothing but an indication that the deceased as well as the first opposite party are the co-owners of the vehicle. The deceased being the son of the first opposite party cannot be treated as workman. He being a co-owner of the vehicle, the insurance company is not liable to pay compensation to the appellants herein. He has also submitted that the Commissioner while deciding the case filed

by the respondents/applicants did not appreciate Ex.A9 in a proper way, thereby, they prayed for setting aside the award.

8. On the other hand, learned counsel for the respondents/applicants has submitted that the name of first opposite party has been clearly mentioned in the registration certificate. The name of his father was also mentioned in the registration certificate but the word S/o. (Son of) was missing in the registration certificate. However, the policy issued by the present appellant clearly shows the first opposite party is the owner of the vehicle, there is no co-owner name in the policy. Therefore, the appellant herein cannot deny its liability to pay the compensation. He has also submitted that there is no bar for a son to work on the vehicle owned by his father. It is a settled law that a father can employ his own son as a workman on his vehicle just like other occupations and professions, therefore, prayed for dismissal of the appeal.

9. The present appeal is filed only on the ground that there are two names on the registration certificate and it includes the name of deceased. As rightly argued by the learned counsel for the respondents, there is no bar for a father to employ his own son as a workman on his vehicle. On that ground, the appellant cannot seek dismissal of the case

filed by the respondents/applicants. It is true, there are two names in Ex.A9, however, while disposing the application filed by the respondents/applicants, the learned Commissioner appreciated the contents of Ex.A9 and arguments advanced by both parties. In Para No.13 of the order, a clear finding has been given about the names mentioned in Exs.A5, A9. It seems when the vehicle involved in the accident was examined by Motor Vehicle Inspector, he gave Ex.A5 certificate which clearly indicates the 4th respondent opposite party as owner of the vehicle. There is no dispute about the name shown as owner of the vehicle and it appears from the record that said Narsagoud is son of A.Siddagoud. The appellant herein could not place any material to show that the 4th respondent/first opposite party is not the son of Siddagoud. In fact while filing the case, the respondents/applicants have mentioned the name of owner of the vehicle as A.Narsagoud, son of Siddagoud. Therefore, I agree with the finding given by the Commissioner. In fact the insurance policy issued by the appellant herein also indicate the name of owner as A.Narsagoud, son of Siddagoud. As rightly argued by the learned counsel, there are no two names as owners of the vehicle in their own

insurance policy. Therefore, I see no grounds to allow the present appeal.

10. In the result, C.M.A. is dismissed confirming the order of the Commissioner.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

**SD/-B.S.CHIRANJEEVI
JOINT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

1. The Commissioner for Workmen's Compensation and Assistant Commissioner of Labour-I, T. Anjaiah Karmika Sankshema Bhavan, RTC Cross Roads, Hyderabad. (with records)
 2. One CC to Sri N. J. Sunil Kumar, Advocate [OPUC]
 3. One CC to Sri C. Buchi Reddy, Advocate [OPUC]
 4. Two CD Copies
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HIGH COURT

DATED: 29/07/2022

JUDGMENT

CMA.No.779 of 2007



DISMISSING THE CMA
NO COSTS

(S) vw
8/12/22

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TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

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30.03.2016)**

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Order in WC No.111 of 2005 dated 09.04.2007 on the file of the Commissioner for
Workmen's Compensation & Assistant Commissioner of Labour-I, T. Anjaiah
Karmika Sankshema Bhavan, RTC Cross Roads, Hyderabad.

This appeal coming on for hearing and upon perusing the grounds of
appeal, the Order of the Commissioner and the material papers in the case and
upon hearing the arguments of Sri N. J. Sunil Kumar, Advocate for the Appellant
and of Sri C. Buchi Reddy, Advocate for the Respondent Nos.1 to 3.

This Court doth Judgment and Decree as follows:

1. That the Civil Miscellaneous Appeal be and hereby is dismissed; and
2. That there be no order as to costs in this Appeal.

SD/-B.S.CHIRANJEEVI
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

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2. Two CD Copies

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HIGH COURT

DATED: 29/07/2022

DECREE

CMA.No.779 of 2007

**DISMISSING THE CMA
NO COSTS**