

THE HONOURABLE SRI JUSTICE M.LAXMAN

CIVIL MISCELLANEOUS APPEAL No.198 of 2009

JUDGMENT:

1. The present civil miscellaneous appeal has been directed against award dated 29.10.2004 in W.C.No.102 of 2004 on the file of the Commissioner for Workmen's Compensation and the Assistant Commissioner of Labour, Hyderabad-II, whereunder, the claim of respondent Nos.1 to 3 herein for grant of compensation for death of one Mr. P. Venkatesh (hereinafter referred to as 'deceased'), in an accident was partly allowed awarding compensation of Rs.4,37,940/-. Aggrieved by the same, the present appeal is filed at the instance of insurance company i.e., respondent No.2 before the Commissioner.

2. The main contention of the appellant-insurance company is that the Commissioner has not considered the wages which are being paid by respondent No.4 herein to the workman, who died during the course of his employment. According to the average wages paid by respondent No.4, they only paid Rs.1,666.66/- instead of considering the same, the Commissioner has accepted the oral evidence of respondent Nos.1 to 3 and records produced by

respondent No.4 for fixing monthly wages of Rs.4,000/- which is not in accordance with the evidence on record.

3. Initially, there was no representation from the learned counsel for appellant on record. Originally, this appeal was filed by Mr. R. Briz Mohan Singh, Advocate and since he died, there was no further appointment by the appellant. In the said circumstances, this Court appointed Mr. A. Rama Krishna Reddy, Advocate, who is one of the standing counsel for the appellant-insurance company to represent the appellant in the present matter. Accordingly, he appeared and made his submissions on behalf of the appellant insurance company.

4. None appeared and there is no representation for respondents.

5. As seen from the scope of interference in the appeal, as contained under Section 30 of the Workmen's Compensation Act, 1923, the interference is warranted only in the case where substantial question of law is involved in appeal. This means unless it is shown that there are perverse findings or the findings are based on no evidence or if the evidence is there, but ignored, but such evidence is relevant evidence. In the present case, as

seen from the impugned order, the appellant has not contested the claim before the Commissioner. The Commissioner took the oral evidence of legal representatives of the deceased workman i.e., respondent Nos.1 to 3 herein and also the records produced by respondent No.4 herein under Exs.X-1 and X-2 into consideration. Having considered such evidence found that wages paid were Rs.4,000/- per month. Further, there is no evidence on record to say that the average monthly wages paid by respondent No.4 comes to Rs.1,666.66/-. In the said circumstances, this Court does not find any substantial question of law and the present appeal is devoid of merits and the same is liable to be dismissed.

6. In the result, the civil miscellaneous appeal is dismissed confirming the award dated 29.10.2004 in W.C.No.102 of 2004 on the file of the Commissioner for Workmen's Compensation and the Assistant Commissioner of Labour, Hyderabad-II. There shall be no order as to costs. Miscellaneous petitions, if any, pending, shall stand closed.

M.LAXMAN, J

Date: 23.01.2023
TU/GVR