



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3333]

THURSDAY, THE NINETEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

CIVIL MISCELLANEOUS APPEAL NO: 343/2018

Between:

- 1.SK.GULZAR BI AND 3 OTHERS, W/O LATE SHAIK MEERA MOHIDDIN, MUSLIM, AGED ABOUT 32 YEARS, HOUSEWIFE, RESIDENTS OF NARUKURU VILLAGE, NELLORE RURAL (M) SPSR NELLORE DISTRICT.
- 2.SK.SHABANA,, D/O LATE SHAIK MEERA MOHIDDIN, MUSLIM, AGED ABOUT 10 YEARS,
- 3.SK.SHALU,, D/O LATE SHAIK MEERA MOHIDDIN, MUSLIM, AGED ABOUT 8 YEARS,
- 4.SK.KAREEMUNNISA,, W/O LATE GHOUSE, MUSLIM, AGED ABOUT 55 YEARS, (ALL ARE RESIDENTS OF NARUKURU VILLAGE, NELLORE RURAL (M) SPSR NELLORE DISTRICT.)

...APPELLANT(S)

AND

- 1.V RAVI BABU AND 2 OTHERS, S/O SUBARAMAIAH, AGED ABOUT NOT KNOWN, OWNER OF THE AUTO BEARING NOS.AP26X6216 (AS PER THE POLICY) R/O T.K.PADU, CHEJERLA MANDAL, SPSR NELLORE DISTRICT.
- 2.SK MASTHANAMMA, W/O NABE SAHEB, MUSLIM, AGED ABOUT NOT KNOWN, OWNER OF AUTO RICKSHAW BEARING NO. AP 26X6216 (AS PER THE PERMIT) R/O 25/1/2128, NBT COLONY, NELLORE.
- 3.IFFCOTOKIO GENERAL INSURANCE CO LTD, REP. BY ITS BRANCH MANAGER, BESIDE SBH, RAMAMURTHY NAGAR,

NELLORE,(1ST AND 2ND RESPONDENTS ARE NOT NECESSARY PARTIES)

...RESPONDENT(S):

Appeal Under Section_____against ordersaggrieved by the order dated 25/03/2017 in E.C.Case No.1 of 2013 passed by the Commissioner for Employees Compensation Act 1923 cum Assistant Commissioner of Labour Nellore,

Counsel for the Appellant(S):

1.M S R CHANDRA MURTHY

Counsel for the Respondent(S):

1.GUDI SRINIVASU

2.

The Court made the following:

J U D G M E N T:

The present appeal is preferred by the claimants, aggrieved by the appellants Award dated 25.03.2017 passed in E.C.No.01 of 2013 passed by the Commissioner for Employees' Compensation Act, 1923-cum-Assistant Commissioner of Labour, Nellore.

2. For the purpose of convenience, the parties will be referred to as they are arrayed before the Tribunal.

3. The appellants herein are the applicants in E.C.No.01 of 2013 and the opposite parties 1 to 3 before the Commissioner are the respondents No.1 to 3 in the present appeal.

4. The case of the appellants/applicants, in brief, as follows:

a) The 1st applicant is the wife, 2nd and 3rd applicants are the daughters and the 4th applicant is the mother of the deceased workman, Sk.Meera Mohiddin. The deceased was engaged by the 1st and 2nd opposite parties as a driver of their auto bearing No.AP 26 X 6216.

b) On 07.10.2012, in the morning, the deceased proceeded from his house to Nellore by driving the said auto for hire. Later in the evening, he proceeded to Janathhussiannagar without passengers in the vehicle to see his mother. When he reached near to Gudipallipadu at 6.00 p.m., he allegedly drove the vehicle at high speed, lost control over it, and the vehicle turned turtle. Due to the said accident, the deceased sustained severe injuries on his head and legs and fell unconscious. He was shifted to the Government Hospital for treatment, where he succumbed to the injuries at about 2.00 a.m.

A case was registered in Crime No.310 of 2012 under Section 304-A IPC by the Station House Officer, Nellore Rural Police Station.

5. The applicants contended that the deceased was aged about 40 years and was earning Rs.300/- per day at the time of the accident. Hence, they sought compensation of Rs.8,00,000/- from the 1st and 2nd opposite parties, being the alleged employers and owners of the auto and from the 3rd opposite party being the insurer of the said auto.

6. Before the Commissioner, the 1st and 2nd opposite parties remained *exparte*.

7. The 3rd opposite party filed a counter denying all the allegations made in the claim petition. It was contended that the accident did not arise out of or in the course of employment. It was further contended that the 1st opposite party had transferred the vehicle in favour of the 2nd opposite party without intimating the 3rd opposite party and therefore there was no privity of contract between the 2nd and 3rd opposite parties. It was also stated that the vehicle was not validly insured with the 3rd opposite party. The insurer further contended that the insured had not complied with the statutory requirements and that the concerned Police Station had not forwarded the relevant documents to the insurer within the prescribed time. The 3rd opposite party also denied that the deceased was working under the 1st and 2nd opposite parties, that he sustained injuries in the accident dated 07.10.2012, that the applicants are the dependents and legal heirs of the deceased, that the deceased was earnings Rs.300/- per day and aged about 40 years, and that the accident occurred during the course of employment. It was also denied

that the driver possessed a valid driving licence. Hence, the 3rd opposite party prayed for dismissal of the claim petition against it.

8. Based on the pleadings, the Commissioner of Labour framed the following points for consideration:

- 1) Whether there is employee-employer relation between deceased and the opposite parties?
- 2) Whether the applicants are entitled for compensation as claimed by the applicants and who are liable to pay compensation?
- 3) If so, to what relief the applicants are entitled to?

9. On behalf of the applicants, AW-1 and AW-2 were examined and Exs.A1 to A4 were marked. On behalf of the opposite parties, RW-1 and RW2 were examined and Exs.B1 to B3 were marked.

10. After considering the pleadings and the oral and documentary evidence on record, the Commissioner of Labour, Nellore dismissed the claim petition on the ground that the applicants failed to establish the existence of an employer–employee relationship between the deceased and the opposite parties 1 and 2, which is a mandatory requirement for claiming compensation under the Employees' Compensation Act, 1923. The Commissioner observed that no documentary evidence was produced to prove that the deceased was employed as a driver under the 1st and 2nd opposite parties and, in the absence of such proof, the claim under the Employees' Compensation Act, 1923 could not be sustained.

11. Aggrieved by the said Award, the present appeal is filed on the ground that the Commissioner erred in dismissing the claim petition by holding that the employer-employee relationship was not proved and that the accident occurred while the deceased was using the vehicle for personal purposes.

12. On a perusal of the award passed by the Commissioner, it is an admitted fact that no material has been adduced by the claimants/appellants to establish the employer-employee relationship between the deceased and the 1st and 2nd opposite parties. To claim compensation under the Employees' Compensation Act, 1923 establishing employer-employee relationship is the basic requirement. The Hon'ble Apex Court in ***Shantabai Ananda Jagtap and another vs. Jayram Ganpati Jagtap and another***¹, while taking note of the above requirement, observed as follows:

“16. The relationship of employer and employee has not been proved before the Commissioner. In our opinion, the same being the basic requirement to be fulfilled for claiming compensation under the 1923 Act, the appellants may not be entitled to receive any compensation.”

13. In instant case also, as the relationship of employer-employee between the deceased and the 1st and 2nd opposite parties is admittedly not proved, the question of fastening liability under the Employees' Compensation Act, 1923 does not arise.

14. In view of the same, this Court does not find any illegality, irregularity, or infirmity in the Award passed by the Commissioner for Employees'

¹ (2023) 8 Supreme Court Cases 171

Compensation Act, 1923-cum-Assistant Commissioner of Labour, Nellore and no interference is warranted. Therefore, this appeal is liable to be dismissed.

13. Accordingly, the Civil Miscellaneous Appeal is dismissed. However, the applicants are at liberty to file an appropriate claim under the Motor Vehicles Act, if they are so advised. There shall be no order as to costs.

Consequently, pending miscellaneous applications, if any, shall stand closed.

JUSTICE V.SUJATHA

Dated: 19.02.2026
KGR