

APHC010263332022



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

[3333]

WEDNESDAY, THE TWENTY SECOND DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

CIVIL MISCELLANEOUS APPEAL NO: 463 OF 2022

Between:

1. THE ORIENTAL INSURANCE COMPANY LIMITED, REP. BY ITS
DIVISIONAL MANAGER, R/O GUTTIKONDA ZOOM PLAZA, NEAR
VINAYAK THEATRE, RING ROAD, VIJAYAWADA 10

...APPELLANT

AND

1. SMT MUDDANGULA CHENNAMMA CHINNAMMA, W/O LATE
CHAKRAPANI, R/O OF D.NO.5-46, DONABANDA VILLAGE,
KACHAVARAM, IBRAHIMPATNAM MANDAL, KRISHANA

2. SRI G VENKATESWARA RAO, S/O CHINA PAKEERAIAH OWNER
OF LORRY BEARING NO.AP 16 TU 5667, RESIDENT OF RAILWAY
ROAD, GUNTUPALLI, IBRAHIMPATNAM MANDAL, KRISHNA DT,

...RESPONDENT(S):

Counsel for the Appellant:

1. SAMBOJU BALA GOPAL

Counsel for the Respondent(S):

1.

The Court made the following Judgment :

The Civil Miscellaneous Appeal is filed by the Insurance Company/
Opposite Party No.2 under Section 30 of The Workmen's Compensation Act,

questioning the Order, dated 12.10.2021 passed in W.C.No.7 of 2018 of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Vijayawada (for brevity "the Tribunal").

2. The Appellant is the Opposite Party No.2/ Insurance Company; Respondents No. 1 is the Applicant and Respondent No.2 is the Opposite Party No.1/ owner of the lorry before the Tribunal.

3. The Respondent No.1 i.e mother of the deceased filed Application under Section 22 of Employees Compensation Act, 1923 claiming compensation due to death of his son Mr. Muddangula Durga Prasad (hereinafter referred to as 'the deceased') during the course of his employment.

4. On 22.11.2014 at about 2.00 a.m the deceased being the driver of the lorry bearing No. AP 16 TU 5667 at Donabanda with load of chips to transport Payakapuram, beside Current Office Road along with another Tipper bearing No. AP 16 TU 788 and the same was unloaded at 3.30 a.m, thereafter two tipper drivers return to Donabanda, while reached at Inner Road, Jakkampudi stopped the lorries by the side of the road and slept on lorry. Next day morning at about 7.00 a.m the driver of the lorry bearing No. AP 16 TU 788 woke up the deceased, but he could not wake up and thereafter he found that the deceased was died in sleep. The body was sent to Government General Hospital, Vijayawada, the Ajith Singh Police registered a case in Crime No.144 of 2014 under Section 174 of Cr.P.C.

5. On hearing both sides, the Tribunal awarded compensation of Rs.8,26,153/- to the Respondent No.1 / Applicant. Aggrieved by the same, the Insurance Company filed the instant Civil Miscellaneous Appeal on the ground that the Tribunal ought to have held that the death of the deceased was due to heart attack was not an employment injury as defined under the provisions of Employees Compensation Act and there is no nexus between the employment and death of the deceased. The Tribunal ought to have held that as per evidence of AWs 1 and 3, the place of incident was not more than 50 kilometers from the place of residence of the deceased, as per the records of the deceased was not on the wheels of the lorry and that he was slept in the lorry, which does not fall within the definition of employment injury as defined under the provisions of Workmen's Compensation Act and as such, the claim of the Applicant is liable to be dismissed.

6. On perusal of the order passed by the Tribunal, it can be observed that the sole Claimant being the mother of the deceased got herself examined as AW-1, who stated with regard to nature of the incident and marked Ex.A1 to Ex.A6 in support of her case. Admittedly she is not an eye-witness to the said incident. She also got examined AW-2. O.P.No.1, who categorically deposed that on 22.11.2014 he worked as lorry driver for the vehicle No. AP 16 TU 788, after unloading the chips at Donabanda stopped the lorries by the side of road and both slept in the lorry. In the early morning when he tried to wake up the deceased, he could not wake up and found dead. The said fact was

intimated by him to the Police, who registered a case in Crime No. 444 of 2014.

7. The Opposite Party No.1 got examined himself as AW-2, who spoke in support of the case of the Claimant and deposed that the deceased died during the course of employment. On behalf of Opposite Party No.2, the Administrative Officer of Insurance Company got examined and stated that the terms and conditions of the Insurance Company does not cover the claim of the Applicant as death of the deceased occurred during the course of employment, while discharging his duty as driver under lawful employment under Opposite Party No.1 and that there is no employer and employee relationship and that there was no nexus between death of the deceased and employer. It is further stated that the Applicant by colluding with the Opposite Party No.1 has given false police report to claim compensation against the Opposite Party No.2.

8. The Tribunal considering the evidence of AWs 1 to 3 coupled with Ex.A1 to Ex.A6 answered the issue No.1 holding that the Applicant successfully established the relationship between the employer with the deceased, which in fact supported by evidence of AW-2.

9. As for as the issue as to whether the Opposite Party No.2 is liable to pay compensation as the deceased died due to heart attack? The Tribunal relying upon the decisions placed by both Applicant and Respondents, holding that the Opposite Parties are liable to pay the same as they failed to prove

that the deceased workman had not suffered any stress or strain in performing his duty as lorry driver. Admittedly, the deceased died of heart attack. Therefore, the only point for determination would be whether it can be considered during the course of his employment or not?

10. In support of said contention, the Applicant relying upon a decision of ***“Param Pal Singh v. National Insurance Company Limited”***¹, which reads as follows:

“W.C.Act, 1923, Sec. 2(1)(n) – Workman – Driver while driving truck felt giddy, parked the vehicle on roadside and fainted in the vehicle, taken to hospital and was declared brought dead.....whether the Commissioner was justified in concluding that deceased workman was employee of owner of the vehicle – Held : Yes.

11. The Commissioner opined that the Applicant is eligible for compensation and the Opposite Parties are liable to pay compensation, as they failed to prove that the deceased workman had not suffered any stress or strain while performing his duty as lorry driver and answered the issue No.2 in favour of the Applicant and this Court is of the opinion is reasonable.

12. Coming to the quantum of compensation, in the absence of any documentary evidence to establish that the deceased was receiving Rs. 8,000/- per month as salary and Rs. 150/- per day as batta from the Opposite Party No.1, the Tribunal assessed minimum wage in force for a driver on lorry in the employment of Public Motor Transport as on the date of incident i.e on 22.11.2014 according to G.O.Ms.No.83, L.E.T&F (Lab-II) Department, dated

¹ 2013 ACJ 526

22.11.2006 published in the A.P.Gazette Part-I Extraordinary No.723, dated 04.12.2006 as Rs. 7,463.75 rounded off to Rs. 7,464/-. As the age of the deceased was 22 years as on the date of accident, the Tribunal taken into consideration of the age and wage awarded compensation of Rs. 8,26,153/- (Rs. 7,464 x 50/100 x 221.37), which this Court is of the opinion is reasonable and needs no interference.

13. In so far as fixing the liability is concerned, the vehicle bearing No. AP 16 TU 5667 was duly insured with Appellant and the Policy was in force as on the date of accident, as such, the Tribunal held that Appellant and Respondent No.2 herein jointly and severally liable to pay compensation to the Respondent No.1 herein, which is rightly considered by the Tribunal.

14. Accordingly, the Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

JUSTICE V.SUJATHA

Dated: 22.04.2026

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