



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

[3333]

THURSDAY, THE TWENTY THIRD DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

CIVIL MISCELLANEOUS APPEAL NO: 501/2019

Between:

1.THE NEW INDIA ASSURANCE COMPANY LTD.,, D.NO.6-15-31, 3RD FLOOR, KUBERA TOWERS, 15/1-ARUNDELPET, GUNTUR, GUNTUR DISTRICT.

...APPELLANT

AND

1.SHAIK HASEENA, W/O.(LATE) NAGUL MEERA, MUSLIM, AGED 31 YEARS

2.SHAIK FAHIMINAZ, D/O.LATE NAGUL MEERA, MUSLIM, AGED 16 YEARS,

3.SHAIK NAIMUDDIN, S/O.LATE NAGUL MEERA, MUSLIM, AGED 13 YEARS, RESPONDENTS 2 AND 3 ARE BEING MINORS, REP. BY THEIR GUARDIAN AND MOTHER - SHAIK HASEENA

4.SHAIK MAHABOOBI, W/O.HANEEF, MUSLIM, AGED 53 YEARS,

5.SHAIK HANEEF, , S/O.MASTHAN, MUSLIM, AGED 58 YEARS, 1 TO 5 ALL ARE RESIDENTS OF D.NO.23-8-1, WARD NO.29, PONNURU, GUNTUR DIST. RESPONDENTS/ APPLICANTS

6.SHAIK JANI, S/O.MASTHAN, OWNER OF LORRY, NO. AP16TX 7457, R/O. D.NO.2-104, VEJENDLA POST, CHEBROLU MANDAL, GUNTUR DIST.

...RESPONDENT(S):

Appeal Under Section_____against ordersMemorandum of Civil Miscellaneous Appeal being aggrieved by the order dated 17-7-2019 passed in W.C. No. 5 of 2016 on the file of the Commissioner for Employees Compensation and Assistant Commissioner of Labour, Tenali, under Section 30 of Employees Compensation Act,

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condon a delay of 1.00 days in presenting the appeal to this Hon'ble court and to pass

IA NO: 2 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings including execution of the order in W.C. No. 5 of 2016 dated 17-7-2019 on the file of the Court of the Commissioner for Employees Compensation and Assistant Commissioner of Labour, Tenali pending disposal of CMA before this Hon'ble Court and pass

Counsel for the Appellant:

1.C PRAKASH REDDY

Counsel for the Respondent(S):

1.BOMMANABOYENA SRINIVASA RAO

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 Employees' Compensation Act, challenging the Order, dated 17.07.2019 passed in W.C.No.05 of 2016 on the file of the Commissioner for Employees Compensation and Assistant Commissioner of Labour, Tenali (for brevity "the Tribunal").

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

03. The case of the applicants, in brief, is as follows:

a) The deceased, Shaik Nagul Meera, was working as an H.V. Driver under opposite party No.1 on lorry bearing No.AP 16 TX 7457 and died due to personal injuries sustained in an accident arising out of and in the course of his employment on 13.07.2015 while they were proceeding from Warangal to Repalle. The accident occurred near Pindiprolu Village, near Mythri Vanam, due to collision with another lorry bearing No.RJ02 GA 6611, as a result of which the driver and cleaner of the said lorry, as well as the driver of the opposite lorry, died on the spot. Basing on a report, a case in Crime No.148 of 2015 was registered by the Thirumalayapalem Police Station.

b) It is the contention of the claimants that the deceased was aged about 30 years and was earning wages of Rs.7,000/- per month at the time of his death. Since the accident and consequential death occurred during the course of his employment under opposite party No.1, both opposite parties 1

and 2, being the employer and insurer respectively, are jointly and severally liable to pay compensation. Hence, the applicants claimed compensation of Rs.10,00,000/- against opposite parties 1 and 2 together with interest.

04. Opposite party No.1 filed a counter admitting the employment, accident and death as mentioned in the claim application and stated that the driver of the vehicle possessed a valid driving licence at the time of the accident. It was further stated that the lorry was duly insured with opposite party No.2 and that the policy was in force as on the date of the accident. It was also contended that his lorry was not the offending vehicle and that there was no negligence on the part of his driver. Hence, opposite party No.2, being the insurer, is liable to pay compensation and the claim against opposite party No.1 is liable to be dismissed.

05. Opposite party No.2 filed its counter denying the averments made in the claim application and contended that the applicants are put to strict proof of the same by producing authenticated documentary evidence. It was further contended that the deceased was not an employee under opposite party No.1 and did not die during the course of employment. However, the liability of opposite party No.2 is subject to the terms and conditions of the insurance policy. It was specifically contended that the driver did not possess a valid and effective driving licence and thereby violated the terms and conditions of the policy and, therefore, opposite party No.2 is not liable to pay compensation.

06. During enquiry, the Tribunal framed issues for determination would be:

1) Whether the deceased was a workman as per the provisions of the Act and he died due to personal injuries he received in an accident arising out of and in the course of his employment? or not, under Opposite Party-1.

2) Amount of compensation payable? to the applicants.

3) Who are liable to pay the compensation?

07. On behalf of the applicants, A.W.1 was examined and Exs.A1 to Ex.A.7 were marked. On behalf of the opposite parties, R.W.s 1 and 2 were examined and Exs.B1 to B3 and Exs.X1 and X2 were marked.

08. After careful consideration of the oral and documentary evidence available on record, the Tribunal awarded compensation of Rs.7,62,432/- and directed opposite parties 1 and 2 to jointly and severally deposit the said amount within thirty days.

09. Aggrieved by the said award, the Insurance Company preferred the present appeal contending that the Tribunal grossly erred in awarding compensation of Rs.7,62,432/- without there being any documentary evidence with regard to the employment and earnings of the deceased, apart from other grounds.

10. Heard Mr.C.Prakash Reddy, learned Standing Counsel for the appellant/insurance company and Mr.B.Srinivasa Rao, learned counsel for respondents No.1 to 5 herein/applicants.

11. On a perusal of the impugned order passed by the learned Commissioner discloses that the 1st applicant, being the wife of the deceased, got herself examined as A.W.1 and deposed that the deceased was working as a Heavy Vehicle Driver under opposite party No.1 on lorry bearing No.AP 16 TX 7457 and died due to personal injuries sustained in an accident arising out of and in the course of his employment. She further deposed that on 13.07.2015, while they were proceeding from Warangal to Repalle, the accident occurred near Pindiprolu Village, near Mythri Vanam, due to collision with another lorry bearing No.RJ02 GA 6611, resulting in the death of the driver and cleaner of the said lorry as well as the driver of the opposite lorry on the spot. Subsequently, a case in Crime No.148 of 2015 was registered before the Thirumalayapalem Police Station. In support of her case, Exs.A1 to A7 were marked. Opposite party No.1 filed a counter admitting the employment, accident and death as stated in the claim application and further stated that the driver of the vehicle possessed a valid driving licence at the time of the accident and that the lorry was insured with opposite party No.2 under a policy which was in force as on the date of the accident. On behalf of opposite party No.2, R.W.1 was examined and deposed that, as per the terms and conditions of the policy, the driver of the lorry must possess a valid and effective driving licence to drive the vehicle. According to him, the deceased driver was not possessing a valid driving licence at the time of the accident and, therefore, opposite party No.1 violated the terms and conditions of the policy by knowingly permitting an unlicensed person to drive the vehicle. Through him,

Exs.B1 to B3 were marked. R.W.2, who was working as Senior Assistant in the office of the Motor Vehicle Inspector, Tenali, produced Ex.X1/authorization letter-cum-particulars of the driving licence and RC, according to which no driving licence particulars were available in the name of Vajrala Bhargava Reddy. He also marked Ex.X2, which is the RC of lorry bearing No.AP 16 TX 7457 standing in the name of Sri Sk.Johny. However, during the course of cross-examination, he admitted that he verified the driving licence particulars only in their office and further admitted that a person can obtain a driving licence anywhere in India with local address proof. The Tribunal, relying upon the evidence of A.W.1 and the admission made by opposite party No.1 regarding the employment of the deceased, coupled with Ex.A1/FIR and Ex.A2/inquest report, held that the deceased was a workman within the meaning of the Employees' Compensation Act and that he died due to personal injuries sustained in an accident arising out of and in the course of his employment under opposite party No.1 as a driver.

12. With regard to compensation, the Tribunal, taking into consideration that the deceased was aged about 34 years at the time of the accident, considered the wages payable to an H.V. Driver in public motor transport as per G.O.Ms.No.83 dated 22.11.2006. The Tribunal assessed the wages of the deceased at Rs.4,319/- per month along with VDA of Rs.3,313/-, totalling Rs.7,632/- per month, for the purpose of computation under the provisions of the Employees' Compensation Act, 1923. Taking into consideration the age and wages of the deceased, the Tribunal arrived at the compensation of

Rs.7,60,910/- and, together with stamp duty of Rs.1,522/-, awarded a total compensation of Rs.7,62,432/-. In the considered opinion of this Court, the said compensation is just, reasonable and does not warrant any interference.

13. View from any angle, this Court does not find any grounds to interfere with the award impugned in the appeal.

14. Accordingly, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 17.07.2019 passed in W.C.No.05 of 2016 by the Commissioner for Employees Compensation and Assistant Commissioner of Labour, Tenali. There shall be no order as to costs.

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

JUSTICE V.SUJATHA

Dated: 23.04.2026
KGR