

THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

C.M.A.No.864 of 2008

JUDGMENT:-

Heard both sides.

2. The present Appeal arises out of the Order dated 16.09.2006 in W.C.No.29 of 2004 passed by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour-1, Guntur

3. The respondent nos.1 to 5 herein, who are the applicants-claimants before the Commissioner's Workmen filed the above W.C. Case claiming compensation of Rs.4,00,000/- (Rupees four lakhs only) towards the death of the deceased. The deceased worked as a Driver under opposite no.1 in the School Van bearing no. AP 7X 268 and the deceased died during the course of the employment on 14.10.2003.

4. On serving notices both the opposite party nos.1 & 2 filed their respective counter affidavits.

5. The opposite party no. 1 admitted the employment of the deceased as the Driver of the School Van. The opposite party no. 2 filed his counter affidavit denying most of the submissions made in the claim application filed by the applicants-claimants. The opposite party no. 2-Insurance Company filed its counter affidavit therein denying the fact that the deceased has died during the course of the employment under the opposite party no. 1. Hence, the Insurance Company is not liable to pay compensation and prayed to dismiss the claim petition.

6. On advertng the facts stated by the opposite party nos.1 and 2, the Commissioner has framed three (3) issues. Out of them, the issue which is relevant for the disposal of this Appeal is hereby extracted:-

1) *Whether the deceased was a workman as per the provisions of the Workmen's Compensation Act and he died due to personal injuries he received in an accident arising out of and in the course of the employment ?*

7. On behalf of the applicants-claimants two witnesses were examined. One such witness is AW2-Doctor. As per the pleadings of the opposite parties, it is not the case of the Insurance Company that the deceased has not died due to injuries. The Doctor, who was examined as AW2 has categorically stated that the deceased died due to heart failure. The deceased fell down on the steering and the bus was stopped at Anandapet in Guntur City. As such, the Commissioner after considering the evidence has observed that the deceased died during the course of employment and awarded an amount of Rs.3,03,509/- besides stamp duty of Rs.608/- totaling of Rs.3,04,117/- considering the G.O.Ms.No.81 dated 02.12.2000 for assessment of the wage of the deceased.

8. The Insurance Company has preferred the Appeal before this Court, on the ground that the deceased has not died due to accident and he died due to heart failure as there is no evidence to show that the deceased died due to stress and strain of the work. The Insurance Company relied on the Judgment of the Hon'ble Apex Court in, "*Shakuntala chandrakanth sreshti Vs Prabhakar*

*Maruti Garvali and another*¹” wherein, it is held that medical opinion therefore would be of relevance to arrive at a conclusion whether any person died due to accident.

9. The Commissioner’s Workmen found that the deceased died due to heart failure relying on the evidence of the Doctor in the post mortem report. In the instant case, it is an admitted fact that the petitioner was the driver of the School Van and died in the bus while driving the bus. This is undoubtedly a strenuous job as the workman who had no history of any previous cardiac disease suddenly developed chest pain and died in the bus itself. When there is no indication about previous disease and any sudden death caused shall be treated as stress and strain. In the present case, there is no evidence to show that the deceased has suffered any ill health prior to the accident. As such, the death shall be treated to have occurred during the course of employment. Hence, the legal heirs are entitled to compensation.

10. The Workmen’s Compensation Act is a beneficial legislation and the Court cannot dwell into the issues in deep to award compensation. Hence, the finding recorded by the Commissioner that the deceased died due to heart attack is purely a finding of fact based on the material on record and it is not on the basis of surmises and conjectures. When a finding is recorded by the Commissioner’s Workmen as regards the nature of work and as to whether the deceased has suffered heart attack arising out of and during the course of the employment, such findings are not open

¹ MANU/SC/8649/2006

to challenge unless perversity is apparent on the face of the record and an Appeal under Section 30 of the Workmen's Compensation Act itself is not maintainable in the present case. It is not the case of the Insurance Company, in its counter affidavit that the deceased has not died due to accident and it is the only main contention of the Insurance Company that the deceased was not an employee of the opposite party no. 1.

11. As the Workmen's Compensation Act, is a beneficial legislation, it should be given liberal interpretation and in the present case, the standard of evidence as applied in criminal cases should not be applied. Its provisions must be interpreted in the way that its objectives are achieved. The evidence is on the basis of preponderance of probabilities as in the case of civil cases after analyzing the evidence and law on the strong circumstances of the case.

12. Therefore, I cannot take a contrary view of the Order 16.09.2006 passed by the Commissioner's Workmen and the Judgment relied upon by the learned counsel for the appellant is not applicable to the present facts of the case as the deceased has not suffered any cardiac problems prior to the accident and there is no such evidence on record. In view of the facts and circumstances of the case the Civil Miscellaneous Appeal is liable to be dismissed.

13. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 19-07-2022
EPS

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