



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

C.M.A. No.80 of 2004

Between:

Sri Ravalla Bangaraiah and another

... Appellants

And

Nadella Rambabu and another.

...Respondents.

Date of Order pronounced on : 13.04.2023

HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA

1. Whether Reporters of Local newspapers : Yes/No
may be allowed to see the judgments?
2. Whether the copies of judgment may be marked: Yes/No
to Law Reporters/Journals:
3. Whether the Lordship wishes to see the fair copy : Yes/No
of the Judgment?

VENKATA JYOTHIRMAI PRATAPA, J



***HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA**

+ C.M.A No.80 of 2004

% 13.04.2023

Sri Ravalla Bangaraiah and another

.... Appellants

And

Nadella Rambabu and another.

....Respondents.

! Counsel for the Petitioner :

Sri P. Nageswara Rao &
Sri S. Subrahmanyam.

Counsel for the Respondents:

Sri P. Phalguna Rao

<Gist :

>Head Note:

? Cases referred:

1) 2007 ACJ 64

2) First Appeal No.568 of 2003

**HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA****C.M.A.No.80 of 2004****JUDGMENT:-**

1. This Civil Miscellaneous Appeal is directed under Section 30 of the Workmen Compensation Act, 1923, (for short ` the Act') against the impugned Order dated 30.04.2003 in W.C.No.73 of 2001 on the file of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Vijayawada (hereinafter be referred to as " Commissioner".)

Parties before the Learned Commissioner:

2. The appellants herein were the applicants, respondent Nos. 1 and 2 herein were the Opposite Parties before the learned Commissioner.

Reference of parties in the appeal:

3. For the sake of convenience and understanding, the parties are referred to as they were arrayed before the learned Commissioner.

**The case of the Applicants in nutshell is that:**

4. The Applicants are the parents of the deceased late R. Srinivasa Rao, who worked as cleaner for the lorry bearing No. ABK 8869 owned by the Opposite Party No.1. The deceased was aged 21 years at the time of accident and used to draw Rs.1,500/- per month apart from Rs.30/- towards batta. While he was on duty at Maharashtra, he met with an accident on the intervening night of 22/23-1998 at about 1.00 am within the limits of Nagapur Police Station and in the said accident, the deceased sustained fatal injuries all over the body, which resulted in instantaneous death. Therefore, they sought for compensation of Rs.2,00,000/- along with interest at 18% p.a.,

Contention of Opposite Party Nos.1 and 2:

5. The Opposite Party No.1 remained set *ex parte*. The Opposite Party No.2 being the insurance company filed Counter denying the averments made in the petition while putting the applicants in strict proof of the mode



and manner of the accident, death, employment, age, wage and driving license of the deceased and the insurance coverage of the vehicle.

In Enquiry:

6. During the course of enquiry, first applicant-Sri Ravalla Bangaraiah was examined as Aw.1 and Exs. A.1 to A.6 were the documents marked. No evidence is adduced on behalf of Opposite Party No.2.

Finding of the Tribunal:

7. On hearing and on appreciation of the evidence on record, the learned Commissioner opined that the applicants failed to prove that they are the dependants on the earnings of the deceased workman. The documents filed do not contain the name of the deceased. As the Opposite Party No.1 i.e., the owner of the lorry is also another son to the applicants, he did not appear before the Court to explain the truth.



Accordingly, the learned Commissioner dismissed the said claim petition.

Grounds of Appeal:

8. Having been aggrieved by the impugned Order, the Applicants carried the matter in appeal on the grounds that:

(a) the applicants being the parents of the deceased, who is their unmarried son, are eligible to claim compensation. AW.1 being the father of the deceased categorically deposed that the applicants are the dependants upon the earnings of the deceased and non-mentioning of the dependency in the petition is not a ground for dismissal of the petition since the applicants are illiterate.

(b) As the accident took place at Maharastra, it is mentioned in the First Information Report and Post Mortem Certificate that one unknown male person died



and that itself cannot be a ground for dismissal of the claim.

9. Heard both the counsel. Perused the material on record.

10. In the light of rival submission of the parties, the following Substantial Questions are framed in this Appeal:

(a) Whether the learned Commissioner is correct in dismissing the petition only on the ground that the dependency of the applicants being the parents is not mentioned in the claim petition?

(b) Whether the learned Commissioner is correct in holding that the name of the deceased is not mentioned in the FIR and PM Report and therefore, the claim of the applicants has to be discarded?

Arguments at the bar:

(c) **Point No.1:** Learned counsel for the appellant would submit that the applicants are the parents of the deceased Srinivasa Rao. The Opposite Party No.1, who is the owner of the vehicle, is also the son of the



applicants. There is no such bar to claim compensation on that score. Though the applicants are the dependants of the deceased, inadvertently, they have not mentioned their dependency in the claim petition. But, in the evidence as AW.1, the father of the deceased, categorically deposed that they are the dependants on the earnings of the deceased. As the accident occurred within the limits of Nagapur Police Station, Maharashtra, it is mentioned in the F.I.R and the PM examination Report that "one male body" and that it itself is not a ground to dismiss the petition.

(d) Learned counsel for the Opposite Party No.2 would submit that the applicants being the parents may be dependants to the deceased, nothing prevented the applicants to examine Opposite Party No.1 as a witness to speak about the employer and employee relationship and also the manner in which the accident occurred apart from the age and wage of the deceased. The applicants did not choose to examine Opposite Party No.1.



Therefore, the Court may pass appropriate Judgment in this matter.

11. In ***Senior Divisional Manager United India Insurance Company Limited Vs Noora¹***, the High Court of Jammu and Kashmir observed that:-

“The aim and purpose of the Act is to ameliorate the sufferings of the workmen and to provide a remedy to the workmen in order to save the victims of the accident from the destitution, vagrancy and, other social evils”.

“While going through the Workmen’s Compensation Act, what is required to be prove is that deceased was workmen and was employed to do an Act in the course of employment and during the course of employment the workmen died due to an accident”.

12. In ***oriental Insurance Company limited Vs Devis High Court of Kerala at Ernakulam²***, para 10 held as follows:-

“Section 147 (1) of the M.V.Act including its provisos, as also the provisions of Section 3 of the WC Act are the beneficial legislations of social objection and are, therefore, expected to be interpreted in favour of those for whose benefit the said legislation are made, even if two views are possible. I have therefore no hesitation to lean in favour of the one enunciated above. The Act is a peace of beneficial social legislation enacted with a prime object of safe guarding the rights as well as

¹ 2007 ACJ 64

² First Appeal No.568 of 2003



protecting the welfare of the workmen. It is a settled principles of Law that the Court has to interpret the provisions of the beneficial legislation in order to achieve the object for which it was enacted. When two views are possible basing on the facts placed before the Court and proved, the Court has to lean towards the view which is beneficial for the workmen”.

Finding:

13. Having heard the submissions of both the counsel and keeping in mind the object of the Act, this Court feels it is appropriate to remand the matter to the learned Commissioner for afresh disposal of the matter by giving opportunity to both parties to adduce evidence if any for the following reasons:

Pertinent to say that Section 2 (1) (d) of the Act narrates, who are the dependants to the workman under the Act. No doubt, the parents of the deceased fall within the definition of the dependants. Under the Act, the liability being strict liability, the legal heirs are not entitled to claim compensation unless they are dependants. No doubt, it is a matter of evidence to prove that the applicants are the dependants to the deceased. On the face of it, the applicants are the



parents of the deceased. The reason assigned by the learned Commissioner is that they have not pleaded in the claim petition that they are the dependants but in the evidence they deposed that they are the dependants. This Court is of the view that the proceedings before the learned Commissioner is a summary in nature and strict rules of evidence are not applicable. This is not a Civil Suit. The applicants would submit that they being the illiterates inadvertently could not mention the dependency aspect in the affidavit. The approach of the learned Commissioner appears to be a technical one. The learned Commissioner can appreciate the evidence of AW.1 to decide the fact that they are the dependants to the deceased. Accordingly, this point is answered.

14. **Point No.2:** The applicants filed Exs. A.1 to A.6 in support of their contention. As the accident occurred within the limits of Nagapur Police Station, Maharashtra, the documents would show that the death of a person. The Opposite Party No.1 did not choose to appear before



the Court to give evidence. It is apt to say that Opposite Party No.2 being the insurance company, they have their own investigation over the matter. They did not choose to adduce any evidence in this regard. Nothing has been elicited in the cross examination of AW.1 except saying that he has no personal knowledge about the documents and the documents do not disclose the name of the deceased. The learned Commissioner is not correct in holding that name of the deceased is not found in the FIR and the P.M. Examination Report, and therefore, the claim of the applicants is not genuine. Despite, the findings of the Commissioner appear to be on factual aspects of the matter, as the very claim itself is dismissed, that can be considered as substantial question of law since the rights of the applicants are discarded.

15. In the light of the discussion referred to supra, it is a fit case to remand the matter to the learned Commissioner for fresh disposal by giving opportunity to both parties to adduce evidence, if any, and then dispose



of the matter in accordance with law. As the accident is of the year 1998, the learned Commissioner is directed to dispose of the matter within a period of Three (03) months from the date of receipt of a copy of this Order.

16. Accordingly, the Civil Miscellaneous Appeal is disposed of remanding the matter to the learned Commissioner for fresh disposal in accordance with law by giving opportunity to both parties to adduce evidence, if any. The learned Commissioner is directed to dispose of the matter within a period of Three (03) months from the date of receipt of this Order. Each party shall bear their own costs.

Miscellaneous petitions pending, if any, in this case shall stand closed.

VENKATA JYOTHIRMAI PRATAPA, J

Date : 13.04.2023
eha



2023:APHC:23578

VJP,J
CMA No.80 of 2004



2023:APHC:23578

VJP,J
CMA No.80 of 2004

15

HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA

C.M.A.No.80 of 2004

Date : 13.04.2023

eha