



**IN THE HIGH COURT OF ANDHRA PRADESH: AT AMARAVATI**

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**CIVIL MISCELLANEOUS APPEAL No.967 OF 2011**

Between:-

C VIMESHWARA REDDY  
Electrical Contractor, R/o D No 1/650,  
Kadapa Road, Tadiparthi, Anantapur District.

...Appellant

AND

1. P PRATAP ANR  
S/o late Venkateswamy, R/o Sunkulammalem,  
Tadipatri, Anantapur District.
2. The Central Power Distribution Company of AP Ltd  
rep by its Superintending Engineer Operation O/o  
Anantapur

...Respondents

**DATE OF JUDGMENT PRONOUNCED: 28.04.2023**

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

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

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**VENKATA JYOTHIRMAI PRATAPA, J**



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

**+ Civil Miscellaneous Appeal No.967 of 2011**

**% DATE: 28.04.2023**

# Between

C VIMESHWARA REDDY  
Electrical Contractor, R/o D No 1/650,  
Kadapa Road, Tadiparthi, Anantapur District.

... Appellant

Vs.

1. P PRATAP ANR  
S/o late Venkateswamy, R/o Sunkulammalem,  
Tadipatri, Anantapur District.
2. The Central Power Distribution Company of AP Ltd  
rep by its Superintending Engineer Operation O/o Anantapur  
... Respondents

! Counsel for the petitioner : Ms. V.Santhisree

^Counsel for respondents : Ms. R.Annapurna

< Gist:

➤ Head Note:

?CASES REFERRED:

- 1) (2017) 1 SCC 45
- 2) 2019 13 SCC 806
- 3) 2019 (11) SCC 514
- 4) 2021 SCC OnLine SC 3133
- 5) 2022 LiveLaw (Raj) 30



**HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA**  
**CIVIL MISCELLANEOUS APPEAL No.967 OF 2011**

**JUDGMENT:-**

This Civil Miscellaneous Appeal is preferred under Section 30 of Workmen's Compensation Act, 1923 (in short 'The Act') against the impugned order dated 30.03.2009 in W.C. No.22 of 2006 on the file of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Anantapur (hereinafter be referred to as "Commissioner").

2. The appellant herein was the Opposite Party No.1 and the respondent Nos.1 & 2 herein were the applicant and Opposite Party No.2, before the learned Commissioner.

For the sake of convenience, the parties hereinafter will be referred to as they arrayed before the learned Commissioner.

3. It is a claim of compensation by the applicant who sustained injuries during the course of



employment due to electrical shock while attending his duties entrusted by the Opposite Part No.2 under the control of Assistant Divisional Manager, Tadipatri to change the defective meter at M/s. Varalakshmi Slab Polishing Industry at Sajjaladinne. Immediately he was shifted to St. Johns Medical College Hospital, Bangalore and later shifted to Yashoda Hospital, Hyderabad, wherein his both hands have been amputated upto elbow. A criminal case is registered in Cr. No.34 of 2005 of Tadipatri Rural P.S. He is the sole earning member of the family. He has wife and 3 children depending on his income. He was getting Rs.3500/- per month. At the time of accident, he was 35 years old. Opposite Parties did not respond till the injured approached the Commissioner by filing a petition, claiming compensation of Rs.4 lakhs.

4. Opposite Party No.1 being a contractor, Opposite Party No.2 being the principal employer filed counter denying the claim of the petitioner.



### **Issues – Enquiry - Finding**

5.(a) Basing on the rival pleadings of both parties, the learned Commissioner framed the following issues.

- 1. Whether the applicant was a workman as per the provisions of the Workmen's Compensation Act, 1923 and he met with the accident arising out of and in the course of his employment?*
- 2. What was the age of the applicant workman at the time of accident?*
- 3. What are the wages paid/eligible wage to the applicant at the time of accident?*
- 4. What is the amount of compensation payable to applicant?*
- 5. Who are liable to pay compensation?*

(b) During the course of enquiry, the applicant himself was examined as AW.1. One Dr.M.Athamaram examined as AW.2 and D.Nagaraju was examined as RW.1. Ex.A1 to A7 were marked on behalf of the applicant.

(c) Having heard the arguments of both sides and on appreciation of the evidence on record, the learned Commissioner awarded Rs.4,15,591/- as compensation with interest 12% p.a. from the date of



accident till the date of realization against both the Opposite Parties.

6. Feeling aggrieved and dissatisfied by the order impugned, the Opposite Party No.1 being the contractor preferred the present appeal challenging the validity of the order impugned by raising the following substantial questions of law.

1. Whether the order of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour in entertaining the claim petition and awarding compensation to the Respondent No.1 is legally sustainable and supported by evidence on record?
2. In the absence of any proof that the Respondent No.1 is a workman within the meaning of Workmen's Compensation Act, whether the Commissioner is not in error in allowing the claim petition on the basis of oral evidence?
3. Whether the Commissioner has jurisdiction to entertain a claim for compensation under the workmen's compensation Act when there is a dispute that the respondent no.1 is not a workman as defined under the Act?
4. Whether the Commissioner is justified in allowing the claim on the ground that the respondent no.1 is a workman and that the appellant is a principal employer?
5. Whether the Commissioner is justified in holding that the appellant is liable to pay compensation for the injury



sustained in the accident on the ground that the 1<sup>st</sup> respondent is engaged by the 2<sup>nd</sup> respondent and that the 2<sup>nd</sup> respondent is a contractor?

6. Whether the Commissioner is not in error in awarding compensation of Rs.4,15,591/- with interest at 12% p.a. from the date of accident till the date of realization of compensation?

7. Whether the reasoning of the Commissioner for awarding the compensation with interest is legally sustainable?

7. Heard both the counsel.

8. When the matter is taken up for hearing, learned counsel for the appellant would submit that, the Opposite Party No.2 also preferred appeal in C.M.A. No.58 of 2010 and the matter was settled before the Lok Adalat vide Award dated 14.12.2019, as such the appeal may be disposed of.

9. As seen from the record, this court does not find any infirmity in the order impugned. Learned Commissioner rightly held that Opposite Party Nos.1 and 2 are liable to pay compensation. Nonetheless, Opposite Party No.1 who is the appellant before this court did not choose to cross examine RW.1 who was



the Opposite Party No.2 before the learned Commissioner. It is pertinent to mention that Opposite Party No.2 has specifically taken a plea that Opposite Party No.1 is only liable to pay compensation. Immediately after the accident, Opposite Party No.1 paid some compensation. Opposite Party No.1 alone is liable to pay compensation, such being the case, Opposite Party No.1 without cross examining RW.1 kept mum before the learned Commissioner and filed the present appeal challenged the said order, seeking indulgence of this Court to touch the factual aspects of the matter which is not permissible under the law. It is beneficial to refer the authorities on the subject to the effect that when there is no substantial question of law, no appeal would lie.

10. Before proceeding further, it is relevant to refer Section 30 of the Workmen's Compensation Act, 1923, which reads that,



**“30. Appeals:-**

(1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely:

(a) an order awarding as compensation a lump sum whether by way of redemption of a half- monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;

[(aa) an order awarding interest or penalty Under Section 4A;]

(b) an order refusing to allow redemption of a half-monthly payment;

(c) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant;

(d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of Sub-section (2) of Section 12;

or

(e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and in the case of an order other than an order such as is referred to in Clause (b), unless the amount in dispute in the appeal is not less than three hundred rupees....”



11. A perusal of Section 30 of the Workmen's Compensation Act referred above makes it clear that the scope of Section 30 of the Act for entertaining the appeal against the order passed by the Commissioner is very limited and is restricted to those that are provided in the clauses (a) to (e). Further, it clearly provides that the award of compensation passed under the Workmen's Compensation Act can be challenged in the appeal only where substantial questions of law are involved.

12. In ***Golla Rajanna and others v. Divisional Manager & Another***<sup>1</sup>, wherein the High Court substituted its views and reduced the compensation drastically in the absence of any substantial questions of law, the Hon'ble Apex Court while referring to the Section 30 of the Act observed as follows;

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<sup>1</sup> (2017) 1 SCC 45



“.....10.Under the scheme of the Act, the Workmen's Compensation Commissioner is the last authority on facts. The Parliament has thought it fit to restrict the scope of the appeal only to substantial question of law, being a welfare legislation....”

13. In ***Fazlu Rahman Ansari vs. National Insurance Company Ltd. & Ors.***<sup>2</sup> the Hon’ble Supreme Court while dealing with an appeal against an order passed by Hon’ble Single Judge under Section 30 held that it is impermissible that the High Court has illegally interfered with the finding of fact arrived by the Commissioner based on recorded evidence, when the appeal was devoid of a substantial question of law.

14. In ***North East Karnataka Road Transport Corporation v. Sujatha***<sup>3</sup>, the Hon’ble Apex Court reiterated the restriction of jurisdiction in appeal under the Act by virtue of Section 30 and has observed in the following terms;

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<sup>2</sup> 2019 13 SCC 806

<sup>3</sup> 2019 (11) SCC 514



“.....The appeal provided under Section 30 of the Act to the High Court against the order of the Commissioner is not like a regular first appeal akin to Section 96 of the Code of Civil Procedure, 1908 which can be heard both on facts and law. The appellate jurisdiction of the High Court to decide the appeal is confined only to examine the substantial questions of law arising in the case....”

15. Similarly in ***Shahjahan and Another v. Shri Ram General Insurance Co. Ltd***<sup>4</sup>, the Hon’ble Apex Court reiterated that the High Court ought not decide a Section 30 appeal as if it is a first Appellate Court on the questions of fact. Recently, a Coordinate Bench of the Hon’ble Rajasthan High Court in ***The National Insurance Co. Ltd. v. Smt. Mohini Devi and Ors.***<sup>5</sup> has also reiterated the settled principle that it cannot exercise jurisdiction when there exists no substantial question of law.

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<sup>4</sup> 2021 SCC OnLine SC 3133

<sup>5</sup> 2022 LiveLaw (Raj) 30



16. The Police registered the case in Cr. No.34 of 2005 stating that, the injured lost his limbs due to electrical shock. Police also examined Opposite Party No.2 and other staff members. Two hands of the applicant were amputated due to the injury sustained in the accident. RW.1 specifically admitted that he is the principal employer and Opposite Party No.1 is the Sub-contractor. As per Section 12 of the Act, both are liable to pay compensation. The negligence however attributed against the applicant is not an important thing to look into the case under the Workmen's Compensation Act since it is a strict liability when the worker suffers any injury during the course of employment, the employer has to make good the loss sustained by the injured. The negligence on the part of the applicant has no bearing in the present case.

17. In the result, the Civil Miscellaneous Appeal is dismissed. In the circumstances, both parties shall bear their own costs.



As a sequel, interlocutory applications pending, if any, in this Civil Miscellaneous Appeal, shall stand closed.

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**VENKATA JYOTHIRMAI PRATAPA, J**

Date : 28.04.2023

**Note:** L.R. Copy to be marked

B.O./PND

