



2023:APHC:25063

VJP, J

C.M.A.No.1021 of 2008

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

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**C.M.A. No.1021 of 2008**

Between:

Gara Padma.

**.... Appellant**

**And**

1. Ferro Alloys Corporation Ltd., and another.

**....Respondents.**

Date of Order pronounced on : 01.03.2023

**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?

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**JUSTICE VENKATA JYOTHIRMAI PRATAPA**



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

**+ C.M.A No.1021 of 2008.**

% 01.03.2023

# Gara Padma.

**.... Appellant**

**And**

1. Ferro Alloys Corporation Ltd., and another.

**....Respondents.**

! Counsel for the Petitioner : Sri KURITI BHASKARA RAO

Counsel for the Respondents: Ms. A V S LAXMI.

<Gist :

>Head Note:

? Cases referred:

- 1) (2019) 13 SCC 806,
- 2) (2019) 11 SCC 514,
- 3) (2022) 1 S.C.R468.



**THE HON'BLE SMT JUSTICE VENKATA JYOTHIRMAI PRATAPA**  
**CIVIL MISCELLANEOUS APPEAL No.1021 OF 2008**

**JUDGMENT:**

This Civil Miscellaneous Appeal is preferred under Section 30 of Workmen's Compensation Act, 1923 (in short "The Act") against the impugned order in W.C.No.44 of 2004, dated 26.11.2005 on the file of the Assistant Commissioner of Labour Circle I, Visakhapatnam (in short "The Commissioner").

2. The appellant herein was the claimant. The respondent Nos.1 and 2 herein were the respondents being the owner and insurer before the learned Assistant Commissioner of Labour, Visakhapatnam. For the sake of convenience, the parties will be referred to as arrayed before the learned Commissioner.

**3. Case of the applicant:-**

Applicant being wife of the deceased Late Adinarayana preferred a claim seeking compensation of Rs.3,19,600/-. stating that her husband worked as watchman/servant under O.P.No.1 for which the O.P.No.2 is the manager since 1980 till 11.10.2003, they used to stay in the quarter provided by the opposite parties. While so, on 11.10.2003 while her husband was on duty, at camp office at Sri Ram Bhavan Visakhapatnam



he suffered a heart attack and was admitted in King George Hospital Visakhapatnam at 9:30 PM and died within one hour. According to the applicant, her husband was exposed to bitter cold due to his duties and he was aged about 48, receiving Rs.2,000/- per month, entitled for Rs.4,000/- per month as his death is out of and in course of employment.

#### **4. Contention of Opposite Party No.1 and 2:-**

They denied the employment of the deceased and contended that the deceased was one of the domestic servants but not employee and that the claim was exaggerated as nature of his duties do not involve stress and strain, would not contribute death. O.P.No.2 also filed counter in the same lines as filed by the OP.No.1. They further stated that there is no nexus between the death and his employment.

#### **5. Issues- Enquiry- and Finding:-**

During enquiry before the Learned Commissioner, the following issues were framed ;

- i. Whether the deceased is a workman as per the provisions of the Act and died during the course of employment and out of employment?
- ii. What was the age of the deceased at the time of accident?
- iii. What was the wage of the deceased at the time of accident?
- iv. Whether the applicant entitled compensation. If so, what amount of compensation the applicant is entitled to receive?
- v. Who are liable to pay the compensation?



Applicant was examined as AW1. Ex.A1 to Ex.A9 documents were marked. On behalf of the opposite party examined as RW1. Ex.R1 to Ex.R7 documents were marked. On appreciation of the evidence on record, the Learned Commissioner allowed the claim in part awarding compensation of Rs.1,99,007/- deducting Rs.15,000/- which is already paid and dismissed the claim against OP.No.2.

**6. Grounds of Appeal:-**

Dissatisfied with quantum of compensation awarded, the applicant carried the matter in Appeal on the grounds that the learned Commissioner granted compensation of Rs.1,84,007/- instead of Rs.3,19,600/- , that interest would be awarded @ 24% P.A., from the date of petition till the realization.

7. Heard both the learned counsel. Perused the material on record.

8. In the light of the rival submissions, the substantial questions of law that would emerge for determination in the Appeal are:-

(i) *Whether the applicant can challenge the order impugned on the point of quantum of compensation”?*

(ii) *“Whether interest need to be granted @24% from the date of the accident”?*

**Analysis Of the Court**



9. Aggrieved by the quantum of the amount granted, the applicant challenged the validity and correctness of the impugned order, it is beneficial to extract Section 30 of the Workmen's Compensation Act, 1923 which reads as under:-

**“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*

*....”*

10. 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. Under Section 30(1) (a), an order disallowing a claim in full or in part for lump sum is appealable notwithstanding the restriction of proviso regarding the involvement of a substantial question of law.

11. In *Fazlu Rahman Ansari v. National Insurance Company Ltd. & Ors.*,<sup>1</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.

12. It is the case of the applicant that her husband while working as watchmen under the O.P.No.1 used to stay in the quarter provided by the owner, since his services were required round the clock. While so on 11.10.2003, the deceased was on duty at camp office at Sriram Bhavan, Visakhapatnam, he suffered a heart attack due to exposure of bitter cold.

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<sup>1</sup> 2019 13 SCC 806



Thereafter, he was admitted in King George Hospital, Visakhapatnam, and died at 10:30PM on that day.

13. Applicant examined as A.W.1, deposed that her husband was aged about 48 years and he used to receive only Rs.2,000/- per month though he is entitled to receive Rs.4,000/- per month. therefore, she sought compensation based on the wage @ Rs.4,000/- per month. The O.P.No.1 filed counter denying the material averments *inter alia* contending that the claim of the compensation is exaggerated. O.P.No.2 also filed counter in the same lines as opposite party No.1. They further stated that the death of the deceased is natural death and has no nexus to the employment.

14. It is not in dispute that the death of the deceased is due to heart attack, and he died during the course of his employment. Applicant pleaded and deposed before the Court that due to stress and strain as the deceased worked round the clock, his health conditions deteriorated. The incident occurred on 11.10.2003. AW2, one Golagani Bujji testified that the deceased worked as servant at guest house of OP.No.1 and he accompanied deceased to the hospital. At the time of his last breath, the deceased was in duty dress. Nothing has been elicited by cross examining AW2 who is an eye witness to the occurrence.





15. In *North East Karnataka Road Transport Corporation v. Sujatha*,<sup>2</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;

*“.....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....”*

16. A bare perusal of impugned order would reveal that the Learned Commissioner has well appreciated the evidence on record, framed specific issues regarding wage of the deceased at the time of the accident and the quantum of the compensation the applicant is entitled. While sitting in appeal under Section 30, this Court is not empowered to interfere with any factual findings like in a First Appeal, unless the Learned Commissioner has overlooked the material evidence or has relied upon inadmissible evidence or has applied the law wrongly or his finding is based on no evidence or is based on only conjecture and surmises or has overlooked the statutory provision or misconducted the same.

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<sup>2</sup> 2019 (11) SCC 514



17. Whereas, on the point of interest, it is a settled law vide a catena of decisions that it must be awarded at rate of 12% p.a. from the date of accident till its realization. In *Ajaya Kumar Das and another v Divisional Manager and Another*<sup>3</sup> it is clearly held at para No.5 that the interest at the rate of 12% p.a. needs to be awarded from the date of accident, but not from the date of award. In this light, the applicant is entitled to have interest over the compensation amount from the date of accident till the date of realization at the rate of 12% per annum and the order of the Learned Commissioner is modified accordingly to that extended.

18. **Result:-**

Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the interest to be awarded @12% p.a. from the date of accident. In the circumstances, both parties shall bear their own costs.

As a sequel, miscellaneous petitions pending, if any, in this Civil Miscellaneous Appeal shall also stand closed.

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**JUSTICE VENKATA JYOTHIRMAI PRATAPA**

Date: 01.03.2023

**Note:** L.R. Copy to be marked  
B.O./PNS

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<sup>3</sup> [2022] 1 S.C.R. 468