

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

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**Civil Miscellaneous Appeal No.1050 of 2011**

Between

United India Insurance Company Limited,  
Nandyala, having its Regional Office at United  
India Towers, 3-5-817 & 818, Basheer Bagh,  
Hyderabad.

... Appellant

Vs.

Shaik Mabunni, W/o Hussain and 3 others

... Respondents

**DATE OF JUDGMENT PRONOUNCED: 15.03.2023**

**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

C.M.A.No.1050 of 2011

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

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... Appellant

Vs.

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... Respondents

! Counsel for the petitioner

: Sri G.S.P. Prakash Rao

^Counsel for respondents

: M/s. S. jSiva Prasad

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➤ 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**

C.M.A.No.1050 of 2011

**HONOURABLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA****Civil Miscellaneous Appeal No.1050 of 2011****JUDGMENT:**

1. This Civil Miscellaneous Appeal is preferred against the impugned order dated 08.09.2003 in W.C.No.30 of 2002 on the file of the Commissioner for Workmen's Compensation-cum-Assistant Commissioner of Labour, Ongole.
2. The appellant herein is the Opposite Party No.2.The respondents 1 to 4 herein are the applicants and Opposite Party No.1 before the learned Commissioner. For the sake of convenience, the parties will be referred as they are arrayed before the learned Commissioner.
3. The applicants filed W.C. claiming compensation of Rs.4,00,000/- from Opposite Parties 1 and 2 for the death of deceased workman Shaik Hussain, who was working as driver of the lorry bearing No.AP-27-U-5055 belonging to Opposite Party No.1. On 07.03.2002 at about 7.30 P.M., the

C.M.A.No.1050 of 2011

deceased, while he was on duty in the lorry, proceeding from Cumbum to Vellore, met with an accident on 08.03.2002 at about 4.30A.M., near Bapanakunta, Cuddapah District and received injuries. The cleaner Mandal Ramudu also received injuries. The driver succumbed to the injuries on admission in Rayachoti Hospital at 8.15.A.M. The deceased was aged about 34 years. Since the accident took place arising out of and in the course of his employment, they sought for compensation of Rs.4,00,000/- from the opposite parties.

4. While Opposite Party No.1 did not choose to contest the case, the Opposite Party No.2-insurance company filed its counter denying the allegations made in the case on the involvement of the vehicle in the accident, the existence of valid and effective driving licence of the driver of the vehicle, the existence of the valid insurance policy at the time of accident and ultimately, the liability of the insurance company to pay compensation.

C.M.A.No.1050 of 2011

5. Having heard both the counsel and on appreciation of evidence on record, learned Commissioner awarded compensation of Rs.3,12,833/- payable by opposite parties to the applicants.

6. Feeling aggrieved by the impugned order, the Opposite Party No.2 preferred the present appeal, on the ground that the learned Commissioner failed to see that the applicants have not established the age, wage and employment of the deceased, that the deceased was not driving the lorry at the time of accident and that the deceased was not an employee of the Opposite Party No.1 and they admitted that they have no record to show age, wage and occupation of deceased.

7. Before proceeding further, it is relevant to refer to 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:

C.M.A.No.1050 of 2011

(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....”

**8.** 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)

C.M.A.No.1050 of 2011

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.

9. In ***GollaRajanna 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;

*".....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...."*

10. In ***Fazlu Rahman Ansari v. 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

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

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

C.M.A.No.1050 of 2011

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.

11. 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;

*".....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...."*

12. Similarly in ***Shahjahan and Another v. Shri Ram General Insurance Co. Ltd.***<sup>4</sup>, the Hon'ble Apex Court

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

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



C.M.A.No.1050 of 2011

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.

**13.** In view of that matter, in the matrix of the present case, a primary doubt this Court entertains is as to whether the questions of law raised by the appellant can be considered to be any substantial questions of law, which needs adjudication in this Appeal.

**14.** As seen from the questions of law raised by the appellant, it appears that they are all purely factual aspects of the matter about the age, wage and employment of the deceased and the relationship of the deceased with the Opposite Party No.1. Further, the impugned order reveals

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

C.M.A.No.1050 of 2011

that the learned Commissioner, basing on recitals of Ex.A.1-FIR wherein it was mentioned that Hussain was the driver of the vehicle at the time of accident, held that the deceased was a workman and died in an accident in the course of and arising out of his employment. Further, as there was no proof of age of the deceased, the learned Commissioner took into consideration the age in Ex.A.6-driving license and the fixed it as 35 years. As there is no proof of income, the learned Commissioner took into consideration the minimum wages fixed to a driver in Public Motor Transport, vide G.O.Ms.No.30 Labour Employment Training and Factories (Lab-II) Department, dated 27.07.2000 and the wages of the deceased at the time of accident, to fix the wages of the deceased at Rs.3,175/-.

**15.** However, it is pertinent to say that the enquiry before the Commissioner under the Workmen's Compensation Act is a summary in nature and the learned Commissioner need

C.M.A.No.1050 of 2011

not even record the evidence word by word and he can just record the substance of the evidence deposed by the witnesses. Such being the case, challenging the order impugned on every finding given on the factual aspects of the matter can never be considered as substantial question of law.

**16.** Taking into consideration the facts and circumstances of the case, this court is of the considered view that there is no question of law much less substantial question of law arising for consideration in this appeal, which need adjudication in this Appeal. Therefore, this court is not inclined to disturb the findings of fact recorded by the Commissioner, while fixing the liability for payment of compensation. Hence, the appeal is liable to be dismissed.

**17.** Accordingly, the Civil Miscellaneous Appeal is dismissed.

**18.** As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

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**VENKATA JYOTHIRMAI PRATAPA, J**

Date: 15.03.2023

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

B.O./Ksn