

**HON'BLE SRI JUSTICE S. RAVI KUMAR**

**CMA No.313 of 2016**

**JUDGMENT:**

This appeal is filed with delay condonation petition. On the request of both sides after condoning the delay appeal is taken up as the main objection raised in the appeal is already covered.

This appeal is preferred questioning the order dated 25.01.2011 in W.C.No.5 of 2008 (old WC No.11 of 2007) on the file of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Ranga Reddy.

2. Respondents No.2 and 3 herein submitted application before the Commissioner for Workmen's Compensation (for short "lower authority") contending that on 30.03.2007, the deceased Mahesh while traveling on DCM lorry bearing No. AP 29U 3148 as cleaner the vehicle met with an accident at about 11.00 a.m., due to which, deceased sustained multiple grievous injuries on his head and all over the body and died on the spot. Claimants contended that deceased was drawing a monthly salary of Rs.3,000/- per month and he died during course of his employment and that they are entitled for compensation of Rs.5 lakhs. Employer i.e., first respondent herein filed counter disputing the affidavit averments and insurance company also filed counter denying the claim of respondents No.2 and 3 and also its liability.

On these contentions, lower authority conducted enquiry, during which, two witnesses are examined and 11 documents are marked on behalf of claimants, whereas, no witnesses are examined on behalf of owner and insurance company, except producing insurance policy, and on a over all consideration of oral and

documentary evidence, lower authority granted Rs.3,55,380/- as compensation with interest @ 12% p.a. on the said amount. Now aggrieved by the order of lower authority, insurance company preferred the present appeal.

3. Heard arguments.

4. It is the contention of insurance company that the lower authority granted interest contrary to the provisions of Workmen's Compensation Act and even the policy does not contemplate payment of any interest, therefore order of the lower authority with regard to grant of interest is not legal. It is further contended that the driver of the vehicle was not having valid driving licence and that insurance company is not liable to pay any compensation, and lower authority without considering this objection granted compensation, therefore the same is liable to be set aside.

5. Now the point that would arise for my consideration is:

***Whether the order of the Commissioner for Workmen's Compensation & Assistant Commissioner of Labour, Ranga Reddy is legal, proper and correct?***

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**POINT:**

6. There is no dispute with regard to accident that took place on 30.3.2007. From the material, it is clear that the deceased was a cleaner on DCM lorry bearing No AP 29U 3148 and that he was under employment as on the date of accident. Though both owner and insurance company disputed the relationship of employee and employer between deceased and the first respondent herein, both of them have not adduced any evidence supporting the plea that was taken in the counter.

7. On the other hand one of claimants who is examined as

AW.1 reiterated the pleadings made in the petition and assertively deposed that deceased was a cleaner working under first respondent herein and on the date of accident he was under the employment and that deceased died during course of his employment. Evidence of AW.1 with regard to relationship of employee and employer between the deceased and the first respondent herein remained un-rebutted. Lower authority by accepting such evidence recorded finding that deceased was cleaner on vehicle bearing No.AP 29U 3148 and died during course of his employment and both the owner and insurer are liable to pay compensation. I do not find any wrong in the findings of lower authority. Though insurance company contended that driver had no valid driving licence but that plea also remained as plea without any proof.

8. The next objection of insurance company is that the lower authority has granted interest, though Workmen's Compensation Act does not provide any provision for payment of interest. But as seen from the order of lower authority it granted interest by relying on judgment of the Supreme Court. Both sides have not disputed the principle laid down by the Supreme Court in the decisions referred to in the order of lower authority, therefore, objection of insurance company with regard to interest is also not tenable.

9. On a scrutiny of the material on record, I am of the view that the lower authority has not committed any error in granting compensation and interest and that objections raised on behalf of insurance company are not tenable and that appeal is devoid of merits and liable to be dismissed.

10. Accordingly, this C.M.A.(SR) No.13157 of 2011 is

dismissed. No costs. Miscellaneous Petitions, if any pending, in this Appeal, shall stand closed.

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**S. RAVI KUMAR, J**

Date: 04-04-2016.

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