

THE HON'BLE SRI JUSTICE RAJA ELANGO

C.M.A.No.853 of 2004

JUDGMENT

Assailing the order, dated 09.04.2003, passed by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Adilabad (for short 'the Commissioner') in W.C.No.3 of 2002, the APSRTC filed the present appeal.

2. The brief facts of the case are that on 21.09.2000 at 11.00 hours, while the applicant-workman was working as coach builders and when he was drilling body beeding on the vehicle at garage, due to cutting of the broken drill bit, he lost his right eye vision. Hence, he filed W.C.No.3 of 2002 claiming compensation from the opposite party.

3. By the order under appeal, the Commissioner awarded a sum of Rs.3,38,673/--to the workman directing the opposite party to deposit the said amount with interest at 18% per annum from the date of accident till the date of deposit, within 30 days from the date of receipt of the said order. Challenging the said order, the present appeal is filed.

4. Learned counsel for the appellant contended that during the process of drilling, the workman failed to wear the safety glasses issued by the Corporation as such he lost his eyesight because of his own negligence. He further contended that the Commissioner erred in assessing the disability at 40% instead of 30% and also granting higher rate of interest at 18% per annum on the compensation amount.

5. Perused the entire evidence on record. As per Ex.A6 and

A7- Certificates, the workman lost his vision in his right eye due to the accident occurred in the course of employment. . Therefore, the Commissioner assessed 40% disability and awarded compensation as stated supra. As regards the contributory negligence, the appellant did not produce any evidence with regard to the precautionary measures provided to the workman in the course of employment. In the absence of any evidence, it cannot be said that there was contributory negligence on the part of the workman. Hence, this Court is not inclined to interfere with the assessment of 40% disability and the compensation amount awarded by the Commissioner. As far as granting of interest at 18% per annum on the compensation amount is concerned, this Court is of the view that as the accident occurred in 2000, the rate of interest justified by the Commissioner is on higher side and the same is reduced from 18% to 12% per annum. The order impugned in all other aspects shall remain unaltered.

6. With the aforesaid modification, the Civil Miscellaneous Appeal is partly allowed. No costs. Miscellaneous applications, if any, shall stand closed.

RAJA ELANGO, J

20th September, 2013

sj