

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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CMA NO. 4179 of 2003

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Date of Judgment: 29.6.2012

Between:

Chimalamarri Venkaiah

...Appellant

and

Soompalli Prasad and another

..Respondents

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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CMA NO. 4179 of 2003

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ORDER:

This appeal is by the claimant seeking enhancement of compensation.

Facts, in brief, are that the appellant was working as driver on lorry bearing No. AP 27 U 1519 belonging to first respondent and insured with second respondent. In the course of employment, on 3.3.2001, while the appellant was ascending the lorry to tie the ropes, he accidentally slipped and fell down from the cabin and sustained serious injuries. The appellant was treated in a private

hospital at Guntur and after recovery he filed a claim petition seeking compensation of Rs.1,50,000/-. He claimed that he was 60 years and getting Rs.2,000/- as wages and Rs.1,000/- as batta per month at the time of accident.

First respondent remained ex parte, whereas second respondent-insurance company denied the claim of the claimant.

Learned Commissioner, after considering the oral and documentary evidence, found relationship of employer and employee between the first respondent and the claimant and that the accident occurred during the course of employment. With regard to quantum of compensation, the medical evidence of doctor-AW-II who treated the appellant and the monthly income of the claimant was taken into consideration. AW-II stated that on 4.3.2001 the appellant was admitted in his nursing home with multiple fractures viz., (1) fracture of right ribs, (2) dislocation of feet, (3) fracture of spine and (4) fracture to right thumb. The appellant was inpatient up to 11.3.2001 and surgery was conducted on right foot and conservative treatment for the chest and spine injury and he was discharged. The doctor was, however, of the opinion that the appellant was having deformity to the right hand and right foot and assessed the disability at 30% which is permanent partial disability under disability certificate-Ex.A5.

The learned Commissioner has taken the medical evidence into consideration coupled with monthly earnings of the appellant at Rs.3070/- in terms of G.O.Ms.No. 30, dated 27.7.2000 and the age of appellant as 60 years and granted a total compensation of Rs.65,011/- including stamp duty.

In this appeal the learned counsel for the claimant/appellant, while seeking enhancement of compensation, claims that the appellant is not fit for driving even as per the medical evidence of AW-II which has not been taken into consideration by the learned Commissioner and in view of that, the disability ought to have been assessed much higher than 30%.

I am unable to accept the said contention as the learned Commissioner has found that though the appellant suffered several fractures, the ultimate deformity is only with respect to right hand and right foot and therefore, the said deformity was rightly assessed as 30% as per the medical evidence of AW-II and certificate-Ex.A5. The appellant was aged 60 years and it is difficulty to accept that the said disability will have impact on his future earnings and driving skills. The learned Commissioner has awarded just and adequate compensation which does not need any interference.

The appeal is dismissed. However, there shall be no order as to costs.

VILAS V. AFZULPURKAR, J

Dt. 29.6.2012

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