
(2003) 01 AP CK 0065
In the Andhra Pradesh High Court
Case No : CMA No. 766 of 2000

Pattam Abdullah Khan

APPELLANT

Vs

T. Venkatarami Reddy and Another

RESPONDENT

Date of Decision : 09-01-2003

Acts Referred:

Motor Vehicles Act, 1988 — Section 167
Workmens Compensation Act, 1923 — Section 3

Citation : (2004) 2 ACC 737 : (2004) ACJ 1951 : (2003) 2 ALD 786 : (2003) 3 ALT 203

Hon'ble Judges : Dubagunta Subrahmanyam, J

Bench : Single Bench

Advocate : A. Rajendra Babu, for the Appellant; V. Venkataramana and D. Gopala Krishna, SC for Oriental Insurance Co., for the Respondent

Final Decision : Dismissed

Judgement

Dubagunta Subrahmanyam, J.—This appeal is filed against the order dated 10.11.1999 in W.C. Case No. 131 of 1994 on the file of Commissioner for Workmen's Compensation-cum-Assistant Commissioner of Labour-I Circle, Guntur.

2. The appellant filed a petition for compensation under the provisions of Workmen's Compensation Act on the ground that while he was working as a Cleaner in a lorry belonging to the first respondent in the course of discharge of his duties as a Cleaner, he was traveling in the lorry ATG 9799 on 10.8.1990 and sustained injuries in the course of his employment. The claim application was opposed by the owner of the lorry as well as the Insurance Company with which the vehicle was insured by the first respondent. The Commissioner granted a total compensation of Rs. 21,034-00 payable by both the respondents jointly to the appellant - claimant. Not being satisfied with the quantum of compensation awarded to him, the workman - claimant preferred the present appeal.

3. A perusal of the record clearly indicates that the appellant played fraud on the

Courts. After the accident he filed a regular claim application before Motor Accidents Claims Tribunal at Sangareddy in the year 1991 itself seeking compensation for the injuries sustained by him in the same accident. Subsequently, suppressing the material fact that he had already filed MVOP, before Motor Accidents Claims Tribunal, with a delay condonation petition u/s 5 of the Limitation Act, he filed an application before the Commissioner for Workmen's Compensation impleading the owner alone as the sole respondent in the said application. The Commissioner ordered notice to the owner in the delay condonation petition and subsequently condoned the delay in filing the application before the Commissioner for Workmen's Compensation. After the delay was condoned, the regular application came up for hearing before the Commissioner. Thereupon the appellant - claimant filed a separate interim application before the Commissioner requesting the Commissioner to implead the Insurance Company as one of the respondents in the claim application. At that stage itself the Insurance Company in the counter filed by it in the interim application in I.A. No. 53 of 1994 brought to the notice of the Commissioner that the claimant filed MVOP No. 103 of 1991 before the Motor Accidents Claims Tribunal, Medak at Sangareddy in the month of January, 1991. The Insurance Company also pleaded that with a view to file two claims one under Motor Vehicles Act, 1988 and another under Workmen's Compensation Act, 1923, the claimant pretended as though he does not know the particulars of the insurance of the lorry ATG 9799. Thereupon the Insurance Company was impleaded as second respondent in the claim application. Thereupon in the claim application the Insurance Company filed a regular counter. In that counter dated 15.10.1995 the Insurance Company clearly pleaded that the claim application in MVOP No. 103 of 1991 was already disposed of by the District Judge, Medak at Sangareddy. Subsequently before the Commissioner the claimant filed a Memo stating that he is not pressing MVOP No. 103 of 1991 before the Motor Accidents Claims Tribunal, Medak at Sangareddy. He requested the Commissioner to enquire into his petition under Workmen's Compensation Act and award appropriate amount against the respondents. That is not a Memo filed before the Motor Accidents Claims Tribunal. If the claimant was not pressing MVOP, filed by him, he must have filed a memo before the Motor Accidents Claims Tribunal and not before the Commissioner for Workmen's Compensation not pressing MVOP No. 103 of 1991. Subsequently the claimant gave evidence before the Commissioner. In his evidence he did not depose that he had withdrawn MVOP No. 103 of 1991. He also admitted that he did not meet his Advocate at Sangareddy and instruct him to withdraw MVOP, concerned. The claimant can choose to claim either under Motor Vehicles Act or Workmen's Compensation Act but not under both the enactments. This legal position is clear from the provision in Section 167 of Motor Vehicles Act, 1988. As the admission by applicant himself disclosed that a claim application was already filed by him before Motor Accidents Claims Tribunal, the Commissioner for Workmen's Compensation ought to have summarily rejected the application subsequently filed before him. He committed a serious error in entertaining the application, proceeding further and awarding

compensation to the appellant herein in the circumstances of the present appeal. In view of this background, it is very clear that the appellant played fraud on the Courts by filing two claim applications suppressing from each Court the fact of his filing another claim application before another Tribunal. In view of suppression of truth by the appellant and in view of deliberate fraud played by him, it is very clear to my mind that even the order passed by the Commissioner granting partial amount as compensation to the claimant is liable to be set aside by this Court exercising the inherent powers vested in this Court. Absolutely there are no merits in the present appeal.

4. In the result, the appeal is dismissed with costs. The entire order passed by the Commissioner for Workmen's Compensation in W.C. Case No. 131 of 1994 is set aside. The said petition stands dismissed with costs.