

(2003) 09 AP CK 0059
In the Andhra Pradesh High Court
Case No : CMA No. 3387 of 2001

Plant Engineer, Nellore Thermal Station Padugu Padu and
Another

APPELLANT

Vs

Joythi Ademma and Another

RESPONDENT

Date of Decision : 12-09-2003

Acts Referred:

Workmens Compensation Act, 1923 — Section 3, 4

Citation : (2004) 2 ACC 191 : (2004) 1 ALD 390

Hon'ble Judges : Dubagunta Subrahmanyam, J

Bench : Single Bench

Advocate : K. Sesha Rajyam, for the Appellant; V. Narayana Reddy, for the Respondent

Final Decision : Allowed

Judgement

Dubagunta Subrahmanyam, J.—This is an appeal against order dated 16-6-2001 in W.C. Case No. 181 of 1996 on the file of Commissioner for Workmen's Compensation-cum-Assistant Commissioner of Labour, Nellore.

2. Deceased J. Venkaiah, who is the husband of the 1st respondent, was working in Nellore Thermal Station. On 24-9-1994 he died at his work spot. The 1st respondent filed an application before the Commissioner for Workmen's Compensation seeking a compensation of Rs. 1,00,000/-. The application was contested by the appellants, inter alia, taking the plea that the death of deceased is natural death and therefore the 1st respondent is not entitled to claim any compensation for the death of her husband. The Commissioner was of the opinion that the deceased died due to heart-attack and accordingly awarded compensation of Rs. 61,236/-, in addition to that amount, the appellants were directed to pay a further sum of Rs. 123/- towards stamp duty. Aggrieved by the said award dated 16-6-2001, the appellants preferred the present appeal.

3. The substantial question of law that arises for consideration in the present

appeal is whether the deceased J. Venkaiah died due to any injury sustained by him in any accident arising out of and in the course of his employment?

4. There was no accident at all at the work spot when the deceased died. There is also no dispute that the deceased did not sustain any injury at the work spot leading ultimately to his death.

5. A learned Single Judge of this Court in a decision reported in Depot Manager, APSRTC, Karimnagar Vs. Gurrupu Anjamma, , held that if any person died as a result of heart-attack at the work spot, it can be said that he died due to stress and strain of the working conditions and therefore the legal representatives of such a person are entitled to claim compensation. If the death of the workman is natural death, his legal representatives are not entitled to claim any compensation under the provisions of Workmen's Compensation Act.

6. In the present case the 1st respondent examined Private Medical Practitioner as a witness on her behalf. It is his evidence that previously deceased was treated by him due to chest disease. No documentary evidence was produced to corroborate his oral testimony. It is not his evidence that some time immediately prior to his death, the deceased was under his treatment. No post-mortem of the dead body of the deceased was performed. No other test in a scientific manner to ascertain the cause of death was done. His evidence regarding cause of death of the deceased viz., that the deceased might have died due to heart-attack is nothing but based on his guess work. Such an evidence is not a substitute for legal proof to establish the fact that the death is not a natural death and it is as a result of any injury sustained by the deceased in any accident in the course of arising out of his employment. Therefore, in the present case, the 1st respondent failed to establish that the death of her husband is unnatural death. Therefore, she is not entitled to claim any compensation under the provisions of Workmen's Compensation Act. I, therefore, feel satisfied that the impugned award passed by the Commissioner is liable to be set aside.

7. In the result, the appeal is allowed and in the circumstances without costs. The impugned order dated 16-6-2001 passed by the Commissioner in W.C. Case No. 181 of 1996 is set aside. The said petition is dismissed without costs.