
(1996) 11 AP CK 0026
In the Andhra Pradesh High Court
Case No : CMA No. 120 of 1991

The Oriental Insurance Co. Ltd.

APPELLANT

Vs

C. Basappa and Another

RESPONDENT

Date of Decision : 26-11-1996

Acts Referred:

Workmens Compensation Act, 1923 — Section 4A

Citation : (1997) 2 ACC 636 : (1997) 1 ALT 373

Hon'ble Judges : B.K. Somasekhara, J

Bench : Single Bench

Advocate : Kota Subba Rao, for the Appellant; P. Damodar Reddy, for the Respondent

Judgement

B.K. Somasekhara, J.—The award of the Commissioner for Workmen's Compensation, Hyderabad twin cities, Hyderabad in W.C. No. 36 of 1988 date 26-9-1990 passing an order of penalty u/s 4-A of the Workmen's Compensation Act (in short, the Act) as against the appellant/insurer is questioned on the ground that the law will not permit such an imposition of penalty on the insurer for non compliance of the directions in the award to pay the compensation awarded in favour of a workman within the stipulated period. Mr. Kota Subba Rao, the learned Counsel for the appellant has pointed that the law in this regard has been settled in various pronouncements including a latest pronouncement of this Court in C.M.A. No. 1286 of 1989 dated 22-8-1996 that there cannot be any such liability on the insurer to suffer such an order. The Law was dealt with in detail by this Court in C.M.A. No. 1286/89 dated 22-8-96, Divisional Manager, Oriental Insurance Company Ltd. Vs. Zarina Bee and Another, with the aid of several precedents, Oriental Fire And General Insurance Company Limited v. Matlar Burla 1986 ACJ 732 National Insurance Company v. Mujataba Khan, National Insurance Co. Ltd. Vs. Mohd. Mujataba Khan and Another, , The Oriental Insurance Company Limited v. Jeevamma 1988 ACJ 671 Sampuram Singh v. Kubrabi 1986 ACJ 183 and G. Sreedharan v. H.I. Insurance Corporation Limited 1976 IC 732. As rightly pointed by Mr. Kota Subba Rao, the learned Counsel for

the appellant, it was positively held that there cannot be any liability on the part of the insurer to pay such a penalty u/s 4-A of the Act. The learned Commissioner has not considered this question at all in the light of the settled law in the decisions supra. There is no representation for the respondent No. 2 to take any other view in the matter. The order of the Commissioner deserves to be set aside.

2. The Order of the learned Commissioner is set aside in so far as the appellant is concerned. There shall be no order as to costs in this appeal.