

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

DA 1026/93.

Dt. of Order:27-1-94.

1. Chief Administrative Officer,
Construction, SE Rlys, Visa-
khapatnam.
2. Dy.Chief Electrical Engineer,
Construction, SE Rlys,
Visakhapatnam.
3. Sr.Personnel Officer/Construc-
tion, SE Rlys, Visakhapatnam.

.....Applicants

Vs.

1. Chedalada Isreal,
2. Commissioner for Workmen's
Compensation, Visakhapatnam.

....Respondents

Counsel for the Appplicants : Shri Gouri Shanker Sanghi
SC for Rlys

Counsel for the Respondents : Shri G. Rama Rao.

CORAM:

THE HON'BLE JUSTICE SHRI V.NEELADRI RAO : VICE-CHAIRMAN

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

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O.A.NO.1026/93

JUDGMENT

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Shri Ch.Nitya Jeevana Raju joined service as Casual Labour in the Railways on 16.3.1985. As a part of duty, he was travelling in a truck No.AAV-4337 belonging to accident and the said Nitya Jeevana Raju ^{sustained injuries and he was} succumbed to death.

The same He left behind his widow Mrs. Ch.Daimond, and father Mr. Ch.Isreal.

2. In the report given by Shri B.Rama Rao, driver of the truck AAV 4337, the name of the deceased was written. On the basis of the said report, the Station House Officer, registered the FIR and therein the name of the deceased was written as Ch.Nitya Jeevana Rao. It may be noted that the report given by the driver of the truck was in Telugu. It is not clear as to whether a mistake ^{was} in referring the deceased as Nitya Jeevana Rao instead of Nitya Jeevana Raju was crept in the report given by the driver of the truck or when it was not legible, the Station House Officer had written it as Nitya Jeevana Rao. Be that as it may, it is now conceded for the applicants i.e., Railways that the person who died in the truck accident on 5.4.1985 was Ch.Nitya Jeevana Raju who was the casual employee of the Railways.

3. A legal heir certificate was obtained in the name of Mrs. Daimond from the MRO on 28.5.1985 wherein it was stated that Mr. Isreal, father of the deceased had agreed for issue ^{of} of the said legal heir certificate in favour of Mrs. Daimond i.e., widow of the deceased. When the said

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legal heir certificate in favour of Mrs. Daimond was produced before the Railways, sanction was given for payment of Rs.55,559=77 as compensation under Workmen's Compensation Act.

But when the bill was ^{presented} produced, the Pay & Accounts Officer ^{to the effect that the claimant} raised objection, ~~for the widow~~ was referred to as the wife of Ch. Nitya Jeevana Rao, while in the ~~past~~, the name was referred to as Ch. Nitya Jeevana Rao. Then the concerned officer of the Railways addressed the ^{Court} police station in which FIR was filed, and also the Superintendent of Police requesting for correction slip in regard to the name of the deceased. It is stated for the applicants that no reply was received from either court or police.

4. The widow of the deceased married again on 20.10.1986. Then she had given an affidavit on 27.6.1988 to the effect that in view of her remarriage, she is giving up all her claims under the Workmen's Compensation Act. The father of the deceased filed W.C.No.131/92 on the file of the Commissioner ^{for} Workmen's Compensation, Visakhapatnam praying for compensation amount, interest and penalty.

5. By the order dated 31.3.1992, the following amounts were ordered:-

Compensation	..	Rs. 54,806=88
50% Penalty	..	Rs. 27,403=42
6% Interest	..	Rs. 26,267=50
Total	..	Rs.1,08,477=80

^{The copy of which}
The said order, which is stated to have been received by the applicants on 8.7.1993 is assailed in this OA. It is also submitted for the applicants that the said amount was deposited on 8.7.1993 under protest before the Commissioner for Workmen's Compensation, Visakhapatnam.

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6. The challenge now is only in regard to the interest and penalty. Section 4-A(3) is relevant for consideration of this point and it is as under:-

"4-A: Compensation to be paid when due and penalty for default:-

(1) xxxx xxxx xxxx xxxx xx

(2) xxxx xxxxx xxxx xxxx xx

(3) Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner may direct that, in addition to the amount of the arrears, simple interest at the rate of six per cent per annum on the amount due together with, if in the opinion of the Commissioner there is no justification for the delay, a further sum not exceeding fifty per cent of such amount, shall be recovered from the employer by way of penalty."

It is manifest from the above that the compensation amount due under the Workmen's Compensation Act has to be paid/ deposited within one month from the date it fell due. If it is ^{not}so paid, then the Commissioner may direct that in addition to the amount of arrears, simple interest at the rate of 6% per annum is payable. It is a case where the amount was not deposited ~~within~~ even though the liability was admitted. When the mistake in the FIR had arisen only on the basis of the report of the truck driver, doubt, if any, in regard to the identity of the deceased

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Copy to:-

1. Chief Administrative Officer, Construction, S.E.Rlys, Visakhapatnam.
2. Dy. Chief Electrical Engineer, Construction, S.E.Rlys, Visakhapatnam.
3. Sr. Personnel Officer/Construction, S.E.Rlys, Visakhapatnam.
4. ~~XXXXXX~~ Commissioner for Workmen's Compensation, Visakhapatnam.
5. One copy to Sri. Gouri Shanker Sanghi, SC for Rlys, CAT, Hyd.
6. One copy to Sri. *G. Ramakrishna* advocate, CAT, Hyd.
W/O 1, Block 5, Plot 10, Bap Hanuman party, opp. Water
7. One copy to Library, CAT, Hyd. *Tamil, Hyd - 44*
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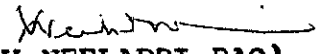
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could have been got clarified by examining that truck driver who was an employee of the Railways. The fact that the identity of the deceased is not disputed in this ^{indicates} case that the concerned authority was ~~not~~ satisfied in regard to the same. But inspite of it, there was a delay of more than seven years by the time they ^{case had} ~~might have~~ come before the Commissioner for Workmen's Compensation. So, in the circumstances, it cannot be stated that there is no justification ~~for not~~ ⁱⁿ ordering interest.

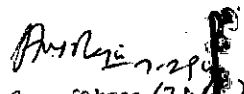
6. The penalty is contemplated under Section 4-A(3) of the Workmen's Compensation Act only in cases of deliberate delay or default in payment/deposit of the amount. The delay in this case had arisen due to the objection raised by the Pay & Accounts Office. Thereafter, the concerned court and the police were addressed. So, in the circumstances, it cannot be stated that it is a case of deliberate delay or default. Hence, in the circumstances, a direction for payment of penalty is not warranted. Accordingly, the impugned order to the extent of penalty ~~of the~~ amount of Rs.27,403=42 is set-aside.

7. In the result, the OA is ordered in part by setting aside that portion of the order in regard to the penalty of Rs.27,403=42 and the order in regard to the ^{grant of other reliefs} ~~balance~~ is confirmed. It is needless to say that the interest would not accrue from the date of ~~the~~ the deposit before the Commissioner for Workmen's Compensation. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 27th January, 1994.
Open court dictation.


Dy. Registrar (2nd Floor)

O.A. 1026/93

TYPED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

AND

THE HON'BLE MR. T. GHANDRASEKHAR REDDY
MEMBER (J)

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER (A)

Dated: 22/1/-1994

ORDER/JUDGMENT: ✓

M.A./R.A./C.A. No.

O.A. No.

in
1026/93

T.A. No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.

pvm

