

Mohd. Moinuddln and Anr. Vs. Commissioner for Workmen's Compensation, Hyderabad and Ors.

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Court : Andhra Pradesh

Decided On : Jun-13-1995

Reported in : 1995(2)ALT437

Judge : Motilal B. Naik, J.

Appeal No. : Writ Petition No. 15193 of 1991

Appellant : Mohd. Moinuddln and Anr.

Respondent : Commissioner for Workmen's Compensation, Hyderabad and Ors.

Advocate for Def. : Sri. G. Vidyasagar

Advocate for Pet/Ap. : Sri. K. L. Narasaiah

Judgement :

ORDER

Motilal B. Naik, J.

1. This writ petition arises against an order in W.C. Case No. 7 of 89 (F), dated 14-11-1991 on the file of the first respondent.

2. Petitioners are the respondents in the said case W.C. No. 7 of 89 (F) on the file of the first respondent. The dependants of the deceased workman filed the said case seeking compensation on various grounds. It is stated that an ex parte order was passed by the Tribunal below on 24-7-1991 directing the petitioners for payment of Rs. 92,000/- towards compensation. On coming to know that an ex parte order was passed by the Tribunal, the petitioners have filed an application seeking to set aside the ex parte order dated 24-7-1991. The said application was returned by the Tribunal to the petitioners on the ground that it has no jurisdiction, by an order dated 14-11-1991, against which the present writ petition is filed.

3. It is contended by Sri K. L. Narasaiah, learned counsel for the petitioners that the order dated 14-11-1991 returning the application seeking to set aside the ex parte order is illegal inasmuch as the Tribunal below has failed to exercise its inherent powers conferred on it. It is further contended that when the Tribunal has jurisdiction to pass an appropriate order, an application to set aside that order is failed, the Tribunal ought to have entertained that application and ought to have passed an appropriate order on merits instead of returning the same.

4. Sri G. Vidyasagar, learned counsel for respondents 2 and 3, however, disputed the fact that the Tribunal below has passed an ex parte order. It is his case that the order was passed on merits as is evidence from the reading of the said order and therefore, contends that no grounds are warranted for interference in the said order.

5. On hearing these claims and counter claims, this Court had directed the learned Government pleader appearing on behalf of the first respondent to place the records. Prima facie, a perusal of the records fails to disclose that the petitioners had received notices. Therefore, I am of the view, the order passed by the Tribunal at the first instance dated 24-7-1991 is an ex parte order. When an application is filed seeking to set aside the ex parte order, the Tribunal ought to have entertained the application and passed an appropriate order on merits on the said application. Failure to entertain an application filed would result in miscarriage of justice. Therefore, Tribunals are to visualise the situation and pass appropriate orders. I hold that when the Tribunal can pass an order, it does have the power to set aside

the ex parte order, if sufficient grounds are made out. The litigating parties need not be driven from pillar to post.

6. Having held that the Tribunal below has power to set aside the ex parte order, the impugned order dated 14-11-1991 is quashed. Consequently, the Tribunal below is directed to pass an appropriate order on merits after hearing both the parties on the application filed by the petitioner seeking to set aside the order dated 24-7-1991. Till such order is passed, the order 24-7-1991 shall not be given effect to it. It is desired that the entire exercise of passing an appropriate order on the application filed by the petitioners seeking to set aside the order dated 24-7-1991 shall be completed, preferably within a period of six weeks from the date of receipt of a copy of this order.

7. The Writ Petition is allowed in the above terms. No costs.

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