



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2015

CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (MD) .No.291 of 2015 (PD)

and

M.P. (MD) .No.1 of 2015

WEB COPY

The Branch Manager,
United India Insurance Company Limited,
Branch Office,
Kumar Complex, Main Road,
Thiruchengode

... Revision Petitioner

vs.

1.K.Rengarajan

2.P.R.Palanivelu ... Respondents

PRAYER: This Civil Revision Petition filed under Article 227 of the Constitution of India, against the order in I.A.No.131 of 2005 in W.C.No.194 of 2004 dated 23.10.2012 passed by the learned Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Tiruchirapalli.

For Petitioner : Mr.J.S.Murali

O R D E R

This revision is directed against the order in I.A.No.131 of 2005 filed by the Insurance Company in Workmen Compensation Case.

2.No notice is necessary to the respondents as this Court intends to direct the trial Court to dispose of the suit at the earliest and it would not cause any prejudice to the respondents.

3.The first respondent herein is a workman, who had filed W.C.No.194 of 2004 claiming a sum of Rs.15,00,000/- for the multiple grievous injuries sustained by him in an accident, which happened during the course of employment.

4.The revision petitioner is the Insurance Company, which was shown as the second opposite party. The first opposite party is the employer of the workman. The Insurance Company alone filed the objection statement and also written argument. The first respondent was set ex-parte. An award was passed in W.C.No.194 of 2004 awarding a sum of Rs.2,60,292/- with 12% interest. The award exonerated the liability of the revision petitioner. Aggrieved by the said ex-parte award, the employer had filed I.A.No.131 of 2015 to set aside the ex-parte order and reopen the case on merits under Order 9 Rule 13 C.P.C. The said application was allowed against which, the present civil revision has been filed. Now, the Insurance Company has filed this revision, challenging the order passed in I.A.No.131 of 2005 on 23.10.2012.



5. According to the revision petitioner, it is not open to the employer to challenge the award which was passed on merits. When the matter is disposed of on merit, it is not open to the employer to challenge it by filing an application under Order 9 Rule 13 C.P.C to set aside the ex-parte decree. It is to be seen that the revision petitioner is the Insurance Company. As per the earlier order, the Insurance Company/Revision petitioner was exonerated from his liability. If the said award was set aside, there is no award as on date against the Insurance Company. Whiles, it is un-understandable as to how the revision is filed by the Insurance Company. The Insurance Company cannot be an "aggrieved person" because as on date, there is no liability cast on him. Once, the insured is made liable, which the Insurance Company is to indemnify. The Insurance Company has got no independent stand. The Insurance Company cannot presume a situation that any award that may be passed again would make it liable to indemnify the insured. If such a situation arise it has to be dealt with in a manner known to law. It is premature for the Insurance Company to file a revision. Therefore, the revision filed by the Insurance Company cannot be entertained and the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

The Commissioner for Workmen's Compensation
(Deputy Commissioner of Labour),
Tiruchirapalli.

+1cc to Mr.J.S.Murali,Advocate SR.No.8316

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