

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.01.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.953 of 2015

Kanthasami

.. Appellant/claimant

Vs

1.K.B.Murugesan

2.The New India Assurance Company Ltd.,
by its Divisional Manager,
No.56/166-D, 1st Floor,
Kovai Main Road, Annur-641 653. ..Respondents/Opposite Parties

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of W.C. Act 1923 against the order dated 07.04.2015 made in W.C. No.52 of 2013 on the file of the Deputy Commissioner of Labour, Coimbatore.

For Appellant : Mr.MA.P.Thangavel

For respondents: Mr.N.Vijayaraghavan for R2

J U D G M E N T

The Civil Miscellaneous Appeal, filed by the appellant/claimant, is directed against the order dated 07.04.2015 made in W.C. No.52 of 2013 on the file of the Deputy Commissioner of Labour, Coimbatore.

2.According to the claimant, on 04.01.2013 at about 24.00 hours, while in the course of employment under the instructions of the owner/first respondent herein, when the claimant was driving the van (Maxi cab) bearing Registration No.TN 40 D 9779 at Narippaiyur to Saiyalkudi road with passengers, the claimant met with an accident and sustained grievous injuries at his right leg and abrasions all over the body. Immediately, the claimant was taken to Government Hospital, Ramanathapuram and for further treatment, he was taken to Ganga Hospital, Coimbatore where he was admitted as an inpatient from 05.01.2013 to 13.01.2013 and the claimant is undergoing periodical

treatment as out patient. He claimed a sum of Rs.5,00,000/- as compensation.

3.In support of his contention, learned counsel appearing for the appellant/claimant drew the attention of this Court to the Insurance Policy dated 29.03.2012, produced as one of the vital documents before the Deputy Commissioner of Labour, Coimbatore. Adding further, he would submit that the Deputy Commissioner of Labour, Coimbatore, without taking into evidence of the said insurance policy, held that the claimant failed to produce the insurance policy and that therefore the insurance company is not liable to pay the compensation.

4.Learned counsel appearing for the second respondent/Insurance company would submit that when the claimant has rightly filed claim petition with the support of five documents including the insurance policy and the same was also in force on the date of accident, the liability to pay the compensation has to be fastened only on the insurance company.

5.Heard Mr.MA.P.Thangavel, learned counsel appearing for the appellant/claimant and Mr.N.Vijayaraghavan, learned counsel appearing for R2/Insurance Company and perused the document on record. On the side of the claimant, P.Ws.1 and 2 were examined and documents Exs.P1 to P5 were marked. No one was examined and no document was marked on the side of the respondents.

6.After considering the oral and documentary evidence, the Deputy Commissioner of Labour, Coimbatore, has awarded a sum of Rs.3,85,096/- with interest at 12% per annum as compensation and exonerating the Insurance Company/second respondent herein from paying the compensation, the Deputy Commissioner of Labour, Coimbatore further held that the first respondent/owner is liable to pay the compensation.

7.Considering the submission made by the Insurance Company/second respondent, the order passed by the Deputy Commissioner of Labour, Coimbatore, exonerating the Insurance Company from paying the compensation on the ground of non production of Insurance Policy alone is set aside. It is made clear that the Insurance Company/second respondent is held liable to pay the compensation, awarded by the Deputy Commissioner of Labour, Coimbatore. Learned counsel for the second respondent sought four weeks time to deposit the entire amount with interest at the rate of 12% per annum. Accepting the submission made by the learned counsel for the second respondent, the second respondent/Insurance Company is directed to deposit the entire amount of compensation with interest within a period of four weeks from the date of receipt of a copy

of this order. On such deposit, it is open to the claimant to move appropriate application for withdrawing the same.

8. Accordingly, the Civil Miscellaneous Appeal is allowed. No costs.

9. Registry is directed to return the original records back to the file of the Deputy Commissioner of Labour, Coimbatore for the purpose of withdrawal of the amount.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

vga

To

1. The Deputy Commissioner of Labour,
Coimbatore.

2. The Section Officer, V.R. Section,
High Court, Madras.

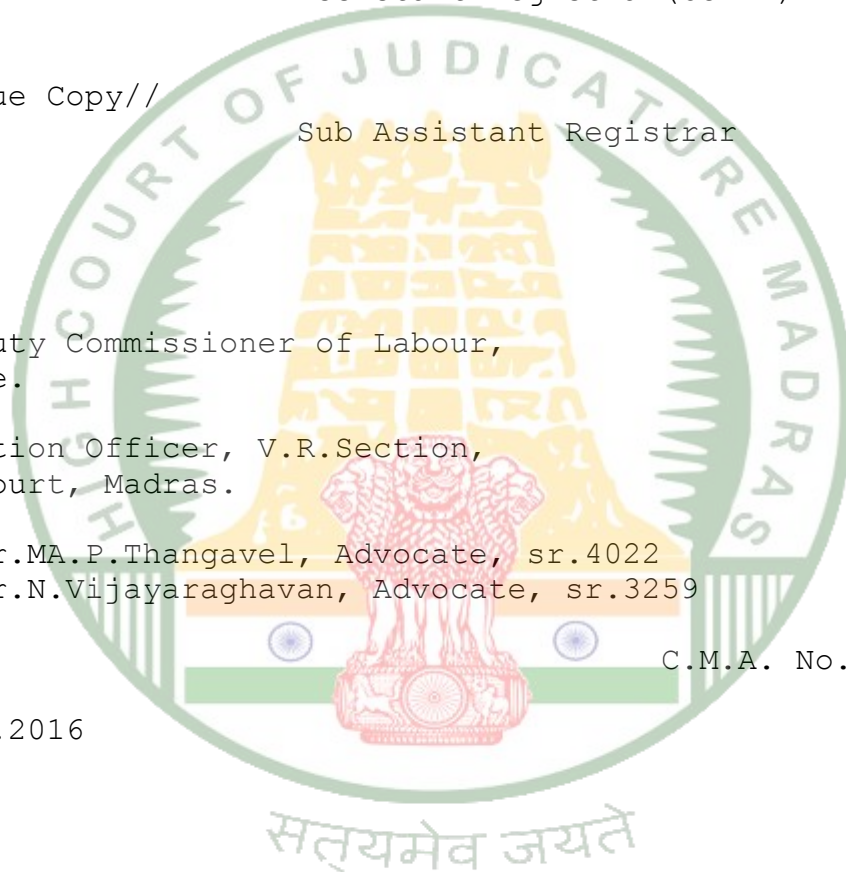
1 cc to Mr. MA. P. Thangavel, Advocate, sr.4022

1 cc to Mr. N. Vijayaraghavan, Advocate, sr.3259

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