

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.2950 of 2006  
and M.P.No.2 of 2006

The Oriental Insurance Co. Ltd.,  
Third Party Motor Accidents Claims Office  
No.8, Esplanade Road  
UIL Building, Chennai 108

... Appellant/2<sup>nd</sup> Respondent

vs.

1. A.Senthil Kumar  
respondent/petitioner  
2. P.Aravindan

..1<sup>st</sup>

.2<sup>nd</sup> .Respondents/1<sup>st</sup> respondent

Civil Miscellaneous Appeal is filed under Section 30 O of the Workmen's Compensation Act, 1923, against the order of the Commissioner for Workmen's Compensation/Deputy Commissioner of Labour-I, Chennai 6 dated 20.07.2005, certified copy of which was served on 01.08.2005 made in W.C.No.85/2004.

For Appellant : Mr.K.Dhanasekar

For Respondents : No appearance

JUDGMENT

Aggrieved over the order of the Commissioner for Workmen's Compensation dated 20.07.2005 made in W.C.No.85 of 2004, the Insurance Company has come forward with this Civil Miscellaneous Appeal on the ground that the accident has not taken place in the course and out of employment and the compensation awarded by the Commissioner based on the percentage is excessive.

2. For the injury sustained by the 1st respondent on 05.05.1999 in an accident that occurred during the course and out of employment, he made a reasonable claim before the Commissioner for Workmen's Compensation, Chennai, who, after analysing the evidence on record, awarded a sum of Rs.2,00,133/- by order dated 20.07.2005 in W.C.No.85 of 2004. Aggrieved

against the said order, the Insurance Company has preferred this Appeal.

3. Heard the learned counsel for the appellant and perused the materials available on record.

4. The Commissioner for Workmen's Compensation has held that since the 1<sup>st</sup> respondent did not establish his age, by taking note of the age of the injured at 22 years, based on the driving licence Ex.P5, fixed the monthly income at Rs.2,000/- in the absence of any document to disprove the monthly income of the injured which was stated as Rs.4,500/- plus batta Rs.50/-per day. That apart, the Commissioner has held that there was valid insurance on the date of the accident viz., on 05.05.1999, since the insurance was valid between 6.8.98 and 6.8.99. Hence, this Court finds that the Commissioner has adopted the correct factor, as per the schedule mentioned in the Workmen's Compensation Act. Further, since there was no contra evidence by the appellant before the Commissioner, I find that the authority was correct in awarding compensation and it cannot be said to be excessive. As per Section 30-A of the Workmen's Compensation Act, an appeal can be maintained only when there is a substantial question of law. In this case, I find that there is no substantial question of law involved in the appeal.

5. Hence, while confirming the order of the Commissioner of Workmen's Compensation dated 20.07.2005 made in W.C.No.85 of 2004, this Civil Miscellaneous Appeal is dismissed. No costs. Connected miscellaneous petition is closed.

-s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

rg

To  
The Commissioner for Workmen's  
Compensation, Chennai.

+1 cc to M/s.D.Geetha Advocate sr.24464

C.M.A.No.2950 of 2006

aa27/04/2016