

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2017

CORAM :

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

C.M.A.No. 146 of 2009
in M.P.Nos. 1 & 2 of 2009

C. Elango

... Appellant/Petitioner

Vs.

1. Ranganayagi

...1st Respondent

2. M/s. National Insurance Company,
City Branch-II, United Shopping Complex,
No: 94/34, Dr.Nanjappa Road,
Coimbatore-18.

... 2nd Respondent

(R-2 impleaded as per the order of the Court
dated. 15.11.2017 in M.P.No. 3 of 2009 in CMA.No.146/2009)

PRAYER: Civil Miscellaneous Appeal is filed under Section 30(1)
of Workman Compensation Act, to set aside the award passed in
W.C.No.20 of 2006 on the file of the Commissioner Workmen
Compensation/The Deputy Commissioner of Labour, Coimbatore,
dated 17.09.2008.

For Petitioner : Mrs.P.Indumathi
For R1 : Mr.B.Ramamoorthi
For R2 : Mr.J.Chandran

सत्यमेव जयते
O R D E R

The appellant is the employer. The appeal is filed
against the order passed by the authority under Workmen
Compensation Act / The Deputy Commissioner of labour.

2. According to the first respondent/claimant he was
employed for picking coconuts from coconut groves. On
24.04.2005, when she was travelling in a van, owned by the first
respondent/ employer, she fell down and suffered injuries.
Consequent to injuries, she suffered disability and lost earning
capacity. Therefore, she filed a claim petition for

compensation. The first respondent denied the employee-employer relationship between the appellant R-1. However, on the basis of the Ex.R2 Medical bills marked by the employer, the authority has come to the conclusion that the claimant is entitled for compensation and awarded a sum of Rs.46,298/-. (Rupees Fourty Six thousand Two hundred and Ninety Eight only).

3. Against the award, the appellant has preferred this appeal, after depositing the award amount. According to the appellant, the employee-employer relationship had not been decided by the forum below. The authority, on the basis of legal evidence and even assuming that the incident had taken place, the vehicle involved in the incident is covered by insurance. In that event, the insurance company ought to have been impleaded as a party and liability could have been fixed by the insurance company. The issue of liability and the issues of employee-employer relationship as well as the liability on the insurance company has not been decided by the authority, as insurance company was not impleaded as a party before the authority. The finding of the authority under Commissioner of Workmen's Compensation Act suffers serious injustice and therefore, this court of the considered opinion that the vital issue ought to be decided by the authority for framing suitable issue. Secondly, the Insurance Company will be impleaded and naturally, they have to be given an opportunity to put up the defence before the authority. So far as the issue of liability is concerned, for the purpose of deciding all these issues, the matter has to be remanded back to the authority for fresh consideration.

4. Accordingly, the order passed in W.C. No. 20/2006 dated 17.09.2008 is set-aside and the matter is remanded to the authority below for framing suitable issues on employee-employer relationship and the liability of insurance company, after giving opportunity to the parties to adduce evidence.

5. Further, a direction is issued to the Commissioner Workmen's Compensation/The Deputy Commissioner of Labour, Coimbatore, to complete the proceedings within a period of 12 weeks, from the date of receipt of a copy of this order.

6. With the above observations, the Civil Miscellaneous Appeal is disposed of. No costs. Consequently connection miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS IV)

//True copy//

Sub Assistant Registrar

bsm

TO

1 National Insurance Company,
City Branch-II, United Shopping Complex,
No: 94/34, Dr.Nanjappa Road,
Coimbatore-18.

2.Deputy Commissioner & Labour,
Coimbatore.

3.The Section Officer,
VR Section, High court Madras-104.(2 Copies)

+1cc to Mr.B.Ramamoorthy, Advocate SR.No.81016
+1cc to Mr.J.Chandran, Advocate SR.No.81079
+1cc to Mr.P.Mathivanan, Advocate SR.No.81346

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GN(29/12/2017)



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