

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2017

CORAM :

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

C.M.A.No.363 of 2008

& MP.No. 1 of 2008 & MP.No. 2 of 2008

Manger

M/s.Royal Sundaram Alliance Insurance Co.Ltd,
Sundaram Towers, No. 45, Whites Road,
Chennai 600 014.

... Appellant/2nd Respondent

Vs.

1. Subbu Reddiar @ Subramani Reddy,
2. Mrs.Boologammal,
3. Master Dheena
4. Mrs.Lalitha
5. Master Pavithra
6. Master Siva
7. Master Sujan ... Respondents 1 to 7/petitioners
(Minor 3rd Respondent rep.by father & NF 1st Respondent
Minor Respondents 5 to 7 rep. by mother & NF 4th Respondent)
8. Mrs.Govindammal
(8th respondent ex parte before Lower Court and
Hence Notice may be dispensed with)... 8th Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 30 of Workmen's Compensation Act, 1923, against the order made in W.C.No. 10/2006 dated 26.11.2007 on the file of Commissioner for Workmen's Compensation, Deputy Commissioner of Labour-2, Chennai.

For Petitioner : Mr.M.B.Gopalan
For Respondent : Mr.C.R.Dhasarathan

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O R D E R

Aggrieved by the award passed by the authority under Workmen Compensation/Commissioner of Workmen's Compensation-II the appellant/Insurance Company has filed this appeal.

2. The appellant has challenged the award on two grounds, one, there is no proof that death was caused and injuries sustained

in the accident in the course of the employment and two, the finding of the authority that the death was due to stress and strain is perverse.

3. Perused the award before the authorities. The respondents/claimants have examined four witnesses and marked six documents to prove the claim. On the side of the appellant, none was examined as witnesses or any document was marked.

4. According to the contention of the respondents/claimants, the deceased/employee was in employment as a Cleaner and in the course of the employment, he has suffered fits due to stress and strain and died. In order to prove his employment, he has examined lorry driver as P.W.3. The lorry driver has clearly deposed that the deceased was in employment as a Cleaner under the first opposite party in lorry bearing Registration No. AP.26 W 0698 and the Insurance Policy was marked as Ex.A3. The R.C book was marked as Ex.A4. The Insurance policy computer table was marked as Ex.A5 and the vehicle permit was marked as Ex.A6. On the basis of these documents, the authority has come to conclusion that the deceased was in employment of the first opposite party. In view of the Insurance Policy marked as Ex.A3, the appellant/Insurance Company is liable to pay compensation.

5. The learned counsel for the appellant/Insurance Company would submit that there is no clear proof as to the cause of death. The learned counsel for the appellant relied on additional typed-set of papers filed along with the Writ Petition, in which he has filed the postmortem certificate of the deceased employee which reveals that no definite opinion could be given regarding the cause of death. There is no clear proof that the deceased had died due to stress and strain. On the other hand, the learned counsel for the respondents / claimants would draw the attention of this Court to the evidence of P.W.4. Doctor, who conducted the postmortem. There is clear deposition by Doctor that the death could have caused due to the hemorrhage out of stress and strain. It is also deposed by the Doctor/ PW.4 that there are chances for suffering fits due to stress and strain and out of the same, hemorrhage would occur. The authority, relying on the documentary and oral evidence, came to the conclusion that the death was caused due to the hemorrhage, out of stress and strain. This finding is not controverted by oral or documentary evidence on the side of the appellant/Insurance Company. In the absence of any evidence, this court is of the opinion that finding given by the authority is reasonable and are supported by documentary and oral evidence.

6. On the other issues of computation of the compensation, no serious objection has been raised and therefore award passed by the authority for workmen's compensation is confirmed.

7. The learned counsel for the appellant would submit that they have deposited the entire amount awarded by the authority with interest from the date of accident till the date of the order. The learned counsel for the respondents acknowledged the same and the Claimants have withdrawn 50% of the amount. The respondents/claimants are permitted to withdraw the balance amount with accrued interest.

8. With above observation, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

bsm

To
The Commissioner for Workmen's compensation,
Deputy Commissioner of Labour -2, Chennai

+1 cc to Mr.M.B.Gopalan, Advocate SR.NO. 72735

+1 cc to Mr.C.R.Dhasarathan, Advocate SR.NO. 71773

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SSV(CO)
JK 16/05/18

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