



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.07.2017

Pronounced on : 18.08.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A (MD) No.1478 of 2010

and

M.P. (MD) No.2 of 2010

The Divisional Manager,
Oriental Insurance Co. Ltd.,
108-T.P.K.Road,
Madurai - 1.

... Appellant/2nd Respondent

Vs.

1.S.Rajee
2.Minor S.Boopalan
3.Minor S.Anbarasi
4.A.Panayan
5.A.Palaniyammal
(R2 and 3 minors represented through
their monther S.Rajee)
6.M.Gandhi

... Respondents/Petitioners
1 to 5 & 1st Respondent

Prayer : This Civil Miscellaneous appeal is filed under section 30 of the Workmen Compensation Act, to set aside the award dated 10.03.2010 and made in W.C.No.99 of 2007 on the file of the Workmen Compensation Commissioner and Deputy Commissioner of Labour, Madurai.

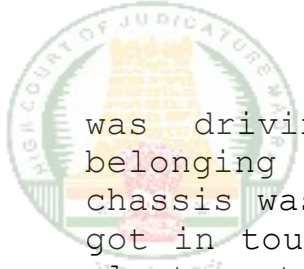
For Appellant : Mr.A.K.Baskarapandian

For Respondents : Mr.K.Kumaravel for RR1 to 3

JUDGMENT

The Oriental Insurance Company is on appeal challenging the order dated 10.3.2010 made in WC No.99 of 2007 on the file of Workmen's Compensation Commissioner / Deputy Commissioner of Labour, Madurai.

2.The respondents 1 to 5 herein filed WC No.99 of 2007 seeking compensation for the death of Selvam, the husband of the first respondent herein. It was stated that on 11.5.2007 the deceased



was driving the lorry bearing registration No.WB 08 A-4591 belonging to the 6th respondent herein. During unloading, the chassis was being raised by the use of hydraulic jockey. The lorry got in touch with the electric line running and the deceased got electrocuted and died due to shock and burn injuries. The deceased died during the course of his employment. The accident arose directly out of his employment. The Workmen's Commissioner by order dated 10.3.2010 passed an award in favour of the claimants to the tune of Rs.4,10,200/-. Aggrieved by the same, this appeal has been filed.

3.The counsel for the appellant contended that the lorry in question was originally registered with PRP Exports and had been transferred in favour of the 6th respondent herein. On 11.5.2007, the Registration Certificate for the lorry stood in the name of the 6th respondent. But the insurance policy was transferred only on 25.9.2007. Therefore according to the appellant, the insurer cannot be made liable. There was no privity of contract. When the policy stood in the name of the previous owner of the vehicle, the appellant corporation cannot be made liable. Therefore, the substantial question of law raised in this appeal is whether the Commissioner of Workmen's compensation was justified in fastening liability on the appellant corporation.

4.Even though the policy was not in the name of the 6th respondent herein, by virtue of Section 157 of the Motor Vehicles Act, there is a deemed transfer. If the ownership of a vehicle is transferred from one person to another, the policy of insurance relating thereto, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the transferee from the date of transfer. It is this provision that has been applied to sustain the claim. It is undisputed that the policy was very much in force during the relevant time. Therefore this court has no hesitation to answer the substantial question of law against the appellant.

5.The Tribunal noted the age of the deceased as 32 and accordingly fixed the factor at 203.85. The monthly salary was taken as Rs.4,000/-. After applying the statutory formula, the compensation was quantified at Rs.4,10,200/-. There is no reason to interfere with the well considered order of the Commissioner. This appeal is therefore dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/



To

The Workmen Compensation Commissioner and
Deputy Commissioner of Labour,
Madurai.

Skm/Arul

AE/KP/SAR3/04.09.2017/3P/2C

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