



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1207 of 2015
and
M.P. (MD) .No.2 of 2015

The Branch Manager,
M/s.United India Insurance Company Limited,
Perambur. ... Appellant/2nd Respondent

Vs.

1.Mujipur Rahuman ...Respondent No.1/Petitioner No.1
2.S.Jamaltheen ...Respondent No.2/Respondent No.1

Prayer: This Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, to set aside the order dated 17.11.2014 of the Deputy Commissioner for Workmen's Compensation, Tiruchirappalli, made in W.C.No.214 of 2012.

For Appellant : Mr.C.Jawahar Ravindran
For Respondents : Mr.V.Pandiyan for R1
No Appearance for R2

JUDGMENT

Heard the learned counsel on either side.

2.The insurer has filed this appeal challenging the award passed by the Deputy Commissioner of Labour, Tiruchirappalli. The first respondent herein was working as a driver in the Light Goods Vehicle belonging to the second respondent herein. During the course of his employment, he met with an accident on 02.09.2011. He suffered injuries. He, therefore, filed W.C.No.214 of 2012, on the file of the Deputy Commissioner for Workmen's Compensation, Tiruchirappalli. The Authority passed the impugned award dated 17.11.2014 awarding a sum of Rs.4,82,893/- with interest. Questioning the same, the insurer has filed this appeal.

3.The principal contention raised by the learned counsel appearing for the appellant is that the injured workman did not possess a valid driving license and he did not carry the requisite endorsement. The Hon'ble Supreme has held that a claim of this nature cannot be defeated by raising such defence.

4.The learned counsel appearing for the appellant would pray that this Court should apply the pay and recover principle. It has



been brought to my notice that the issue is still yet to be authoritatively decided by the Hon'ble Supreme Court. The position prevailing as on date is that pay and recover principle cannot be applied in this case merely because the endorsement was not made on the driving license. I am inclined to go by the position prevailing as on date. As such, I find no merit in this appeal. The substantial questions of law are answered against the appellant.

5.This Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-IIII)

/True Copy/

Sub Assistant Registrar

To

The Deputy Commissioner for Workmen's Compensation, Tiruchirappalli,

Copy to:

1 The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

2 S.JAMALTHEEN,
S/O. SYED THAVUTH,
NO.282, WARD NO.2,
KEELATHERU,
VALIKANDAPURAM POST, VEPPANTHATTAI TALUK,
PERAMBALUR DISTRICT.

+1CC to Mr.V.Pandiyan, Advocate, SR.No. 89228

+1CC to Mr.C.Jawahar Ravindran, Advocate, SR.No. 89225

C.M.A. (MD) No.1207 of 2015

and

M.P. (MD) .No.2 of 2015

24.11.2017

tsg

AM/KK/SAR 2/31.01.2018/2P/5C