



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2017

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A. (MD) No.434 of 2014
and
M.P. (MD) No.1 of 2014

Branch Manager,
The Oriental Insurance Company Limited,
No.4-A, Promenade Road,
Cantonment, Trichy- 620 001.

... Appellant/2nd Respondent

Vs.

1.Ashok @ Ashokkumar
2.SenthilKumar

... 1st Respondent/Petitioner
... 2nd Respondent/1st Respondent

(2nd Respondent remained exparte before the lower Court)

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Award of Rs.8,38,409/- (Rupees Eight lakhs Thirty Eight Thousand Four Hundred and Nine Only) passed in W.C.No.209/2013, dated 14.03.2014, on the file the learned Commissioner for Workmen's compensation, (Deputy Commissioner of Labour), Trichirappalli.

For Appellant : Mr.K.Bhaskaran
For R-1 : Mr.N.Sudhagar Nagaraj

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant against the award dated 14.03.2014, passed in W.C.No.209 of 2013, by the Deputy Commissioner of Labour, Trichirappalli.

2.The first respondent filed W.C.No.209 of 2013 before the learned Deputy Commissioner of Labour, Trichirappalli, claiming a sum of Rs.8,00,000/- as compensation for the grievous injuries sustained by him in an accident occurred during the course of his employment under the second respondent.

3.In the counter affidavit, it is stated that there is no relationship of employer and employee amongst the first respondent and petitioner. There is no merit in the petition and the same deserves to be dismissed.



4. On the basis of the available evidence on record, the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Tiruchirappalli has awarded a sum of Rs.8,38,409/- and against the award passed by the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Tiruchirappalli the present Civil Miscellaneous Appeal has been preferred at the instance of the second respondent as appellant.

5. The learned counsel appearing for the appellant/second respondent has attacked the impugned award passed by the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Tiruchirappalli on the ground that there is no relationship of employer and employee has been existence amongst the first respondent and petitioner.

6. Per contra the learned counsel appearing for the first respondent/petitioner has contended that the vehicle which involved in the accident absolutely belongs to the first respondent and the same has been insured with the second respondent and on 08.10.2013 the same has been driven by the petitioner and subsequently accident has happened and due to that the present petition has been filed and the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Tiruchirappalli after considering the available evidence on record has passed the impugned award and therefore the contentions put forth on the side of the appellant/second respondent are liable to be rejected.

7. It is an admitted fact that the ambulance bearing registration No.TN-45-AF-8782 belongs to the first respondent (owner of the vehicle) and the same has been insured with the present appellant/second respondent.

8. The main objection raised on the side of the appellant/second respondent is that there is no employer and employee relationship amongst the first respondent and petitioner. As stated earlier the first respondent is the owner of the ambulance bearing registration No.TN-45-AF-8782 and the same has been insured with the second respondent.

9. Considering the fact that the first respondent is the owner of the said vehicle and also considering that in the petition it has been clearly stated that on the date of accident the petitioner has driven the same as its driver, it is very clear that the petitioner has clearly established the relationship of employer and employee amongst the first respondent and petitioner. Therefore the attack made on the side of the appellant/second respondent goes out without merit. Hence, the present Civil Miscellaneous Appeal deserves to be dismissed.

10. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 14.03.2014, passed in W.C.No.209 of



2013, on the file of the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Trichirappalli, is confirmed. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of four weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the claimant is permitted to withdraw the same, with accrued interests and costs. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner, (Workmen's compensation)
(Deputy Commissioner of Labour),
Trichirappalli.

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

+ 1 CC TO Mr.N.SUDHAGAR NAGARAJ, ADVOCATE IN SR No. 47509
+ 1 CC TO Mr.K.BHASKARAN, ADVOCATE IN SR No. 77573

RJ2

TE/MR-KKR/SAR-IV : 09/10/2017 : 3P/5C

C.M.A. (MD) No.434 of 2014 and
M.P. (MD) No.1 of 2014
08.09.2017