



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.07.2017
CORAM
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

C.M.A(MD)No.463 of 2014
and
M.P.(MD)No.3 of 2014

The Divisional Manager,
National Insurance Co.Ltd.,
No.3, North Veli Street,
Madurai 625 001.

... Appellant / 2nd Respondent

Vs.

1.M.Maharajan

... Respondent / Petitioner

2.N.Nagarajan

... Respondent / 1st Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 30 of Workmen Compensation Act, against the award dated 18.10.2011 in W.C No.198 of 2008 on the file of the Commissioner of Workmen Compensation (Deputy Commissioner of labour), Madurai.

For Appellant :Mr.S.Srinivas Raghavan
For R-1 :Mr.K.Mahendran
For R-2 :No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company against the award, dated 18.10.2011 in W.C No.198 of 2008 on the file of the Commissioner of Workmen Compensation (Deputy Commissioner of labour), Madurai.

2. The first respondent filed W.C.No.198 of 2008 before the learned Deputy Commissioner of Labour, Madurai, claiming a sum of Rs.4,89,699/- as compensation for the grievous injuries sustained by him in an accident occurred during the course of his employment under the second respondent.

3. Counter statement has been filed by the appellant insurance company before the Commissioner, disputing the manner of the accident and quantum of compensation.

4. After considering the oral and documentary evidence, the Commissioner, by an order dated 18.10.2011, has awarded a sum of Rs.1,13,175/- as compensation, by fixing the permanent disability at 26%. Aggrieved by the aforesaid award, the appellant insurance company has preferred this appeal.



5. However, when the matter is taken up for hearing, both the learned counsel appearing for the respective parties fairly submit that the issue involved in this civil miscellaneous appeal has already been decided by this Court in C.M.A.(MD).No.619 of 2015 dated 15.09.2016, wherein, in respect of another victim in the same accident, after framing necessary issues and elaborate discussions on the issue in question, this Court has partly allowed the claim of the appellant therein. The operative portion of the said order is usefully extracted below:-

"13.Accordingly, this civil miscellaneous appeal is partly allowed and order is passed as follows:

1.The insurance company is directed to pay the compensation and liberty is given to recover the same from the owner of the vehicle, as decided by the decision of the Hon'ble Supreme Court cited supra.

2.The first respondent/claimant is directed to withdraw the entire amount, which already in deposit before the Deputy Commissioner of Labour, Madurai.

No Costs. Consequently, connected miscellaneous petition is closed."

6. In the light of the above aspect coupled with the fact that the issue is no more *res integra*, this Court is of the view that the Tribunal was not right in fastening the liability upon the appellate insurance company and following the earlier order made in CMA.(MD).No.619 of 2015, dated 15.09.2016, the award passed by the Tribunal is modified as per paragraph no.5 of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/Truecopy/

Sub Assistant Registrar

To,
The Commissioner of Workmen Compensation
(Deputy Commissioner of labour), Madurai.

COPY TO:
The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.S.SRINIVAS RAGHAVAN, Advocate SR.No.67251

rj2
MAS/KP/SAR2:24.08.2017:2P-4C

C.M.A (MD) No.463 of 2014
and
M.P. (MD) No.3 of 2014
24.07.2017