



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.09.2017
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

C.M.A (MD) No.33 of 2016
and
C.M.P. (MD) No.537 of 2016

The Divisional Manager,
The United India Insurance Company Limited,
City Branch Office-II,
Office Address,
No.254, Goodshed Street,
Madurai-01.

... Appellant/Petitioner

Vs.

1. Ammiyappan
2. Muthupetchi
3. Deputy General Manager,
Power Great Corporation India Limited,
Thirumangalam Road,
Chekkanoorani,
Thirumangalam Taluk,
Madurai District.

... Respondents 1&2/Petitioner 1&2

4. S.Karuppu

... Respondents 3&4/Respondents 1&2

PRAYER:- Civil Miscellaneous Appeal filed under Section 300 of Workman Compensation Act, against the order passed in W.C.No.178 of 2012 dated 02.07.2015 on the file of the Deputy Commissioner for Workmen Compensation, Madurai.

For Appellant	: Mr.C.Jawahar Ravindran
For Respondents	: Mr.K.R.Shivashankari
	for R.1 and R.2
	: Mr.Aiyar & Dolia
	for R.3
	: No Appearance
	for R.4

J U D G M E N T

The Civil Miscellaneous Appeal has been filed against the order passed in W.C.No.178 of 2012 dated 02.07.2015 on the file of the Deputy Commissioner for Workmen Compensation, Madurai.



2. The brief facts of the case are as follows:

On 23.08.2012 at about 12.30 p.m., when the deceased viz., Sivan was under the employment with the second respondent and under the supervision of first respondent. While the deceased was trying to remove the pigeon nest in the Unit-I by using the extension ladder, he fell from the ladder and due to the said impact, he sustained head injury and a fracture in his right had. Immediately after the accident, he was taken to the hospital where he declared dead. At the time of accident, the deceased was aged about 28 years and he was earning a sum of Rs.7,000/- per month. The claimants are the parents of the deceased and they claimed a sum of Rs.10,00,000/- as compensation.

3. Before the Commissioner of Workmen Compensation (Deputy Commissioner of Labour), Madurai, on the side of the claimants, two witnesses as P.W.s 1 and 2 were examined and eight documents viz., Exs.P.1 to P.8 were marked and on the side of the first respondents, one witness viz., R.W.1 was examined and two documents viz., Exs.R.1 and R.2 were marked.

4. The Workmen's Compensation Commissioner, after discussing the evidence and documents on record, reached the conclusion that the accident was occurred at the time of employment and hence, the the third respondent Insurance Company is liable to pay the compensation of Rs.7,13,438/- on behalf of the second respondent as per the following formula:

Compensation payable	:Rs.6690x50/100x211.79
	:Rs.7,08,438/-
For funeral expenses	:Rs.5,000/-
Total	:Rs.7,13,438/-

Against which, the appellant/Insurance Company has filed this present appeal.

5. In this Civil Miscellaneous Appeal, though so many substantial questions of law have been raised, the learned Counsel for the appellant/Insurance Company has raised his contention only regarding the following Substantial Question of Law:

"Whether the learned Commissioner was erred in ordering the appellant to pay the compensation more than the contractual amount?"

6. The learned Counsel for the appellant/Insurance Company submitted that the fourth respondent herein has taken workmen compensation policy for 11 employees for the total wages of Rs.7,727,160/- for one year and the fourth respondent has taken <https://hcservices.eportal.gov.in/hcservices/> declaring the daily wages of the employees at Rs.183.62 and by such calculation, the monthly income comes to Rs.5,508/- and hence, the appellant is liable to pay compensation



only to the extent of wages declared by the fourth respondent/insured.

7. The learned counsel the respondents 1 and 2/claimants disputed the said contention and he would draw the attention of this Court to a decision of this Court in ***the Manager, Oriental Insurance Company Ltd., Chennai and Asaithambi and Others*** reported in **2016(2) TNMAC 134**, wherein this Court has held as follows:

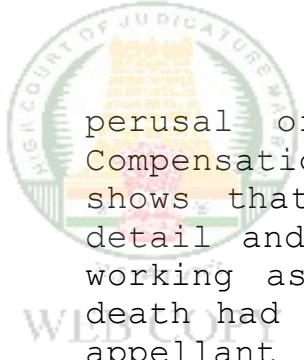
"13. As far as the Fifth Substantial Question of Law is concerned, it is the case of the appellant that the very liability is limited up to Rs.27,000/-. I have perused the Insurance Policy. Nowhere it is stated that the liability is limited up to Rs.27,000/-. Under the policy, it is seen that Engineers, Supervisors, Skilled Workers and Unskilled Workers are covered. The monthly salary of a Unskilled Worker is stated as Rs.2,700. 10 Unskilled Workmen are covered under the policy. For 10 Unskilled Workers, the yearly salary is stated as Rs.27,000 x 12 = Rs.3,24,000/-. This Rs.27,000/- is relied upon by the Appellant to show that there is limited liability for the Insurance Company. I am not able to agree with the submission made by the learned Counsel for the Appellant. There is no limited liability up to Rs.27,000/-. Hence, the Fifth Question of Law is also answered against the Appellant.

14. In the result, the compensation awarded by the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Tiruchirappalli is confirmed and the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed. The first respondent-Claimant is permitted to withdraw the compensation that has already been deposited by the Appellant-Insurance Company."

8. Placing reliance on the above judgment, the learned counsel for the first and second respondents/ claimants submitted that the award passed by the the Commissioner of Workmen Compensation (Deputy Commissioner of Labour), Madurai deserves no interference and hence, this appeal has to be dismissed.

9. Heard the learned counsel appearing on both sides and perused the materials available on record.

10. In the judgment referred by the learned Counsel for the respondents 1 and 2/claimants, the Counsel who appeared for the Insurance Company is the same Counsel appeared for the Insurance Company in the present Appeal also. The judgment referred by the claimants is squarely applicable to the present case also. A



perusal of the award passed by the Commissioner of Workmen Compensation (Deputy Commissioner of Labour), Madurai also clearly shows that the Deputy Commissioner of Labour has discussed in detail and found that at the time of accident, the deceased was working as a driver under the second respondent herein and the death had occurred during the course of employment and hence, the appellant Insurance Company has to pay the compensation and the same does not require interference at the hands of this Court. The Substantial Question of Law is answered accordingly.

11. In the result, this Civil Miscellaneous Appeal is dismissed and the award made in W.C.No.178 of 2012, dated 02.07.2015, on the file of the Commissioner for Workmen's Compensation, (Deputy Commissioner of Labour), Madurai is hereby confirmed. The respondents 1 and 2/claimants are entitled to withdraw the entire amount deposited before the Commissioner for Workmen's Compensation, (Deputy Commissioner of Labour), Trichirappalli to the credit of W.C.No.178 of 2012. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1. The Deputy Commissioner for Workmen Compensation,
Madurai.

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

+ 1 CC TO MR.C.Jawahar Ravindran, ADVOCATE IN SR No.80985

+ 1 CC TO MR.Aiyar & Dolia, ADVOCATE IN SR No.80795

+ 1 CC TO MR.K.R.Shivashankari, ADVOCATE IN SR No.80764

ssl/vsg

MK/SKN RSK/SAR-2/12.10.2017/4P/6C

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