



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.384 of 2016

M.Ganesan ... Appellant/Claimant

Vs.

1. C.Narayanathevar

2. ICICI Lombard General,
Insurance Company Limited,
Nugampakkam, Chennai-600 034.
Policy No.090102/31/09/01/00003450
Valid for the period
from 12.03.2010 to 11.03.2011 ... Respondents/Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 24.12.2012, passed in W.C.No.61 of 2008 on the file of the Deputy Commissioner of Labour, Tirunelveli.

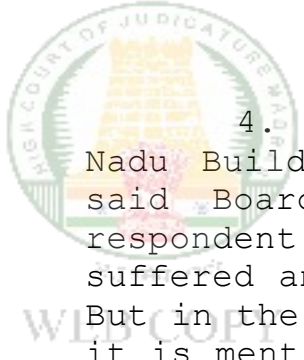
For Appellant	: Mr.Ananth C.Rajesh
For R-1	: Mr.V.Angusamy
For R-2	: Mr.K.K.Ramakrishnan

JUDGMENT

Heard the learned counsel on either side.

2. The claimant workman filed W.C.No.61 of 2008 before the Deputy Commissioner of Labour, Tirunelveli, claiming compensation on the ground that he was employed under one Narayanathevar, when he suffered injuries in an accident that occurred during the course of his employment on 03.12.2007. According to the claimant, the second respondent is the insurer, having the liability to satisfy the award. Before the Deputy Commissioner of Labour, Tirunelveli the said Narayanathevar remained *ex parte*.

3. The second respondent herein, however, filed a detailed counter affidavit by opposing the claim. According to the second respondent, there is no employer-employee relationship between the workman and the said Narayanathevar. Similarly, there is no contract between Narayanathevar and the second respondent / Insurance Company.



4. It appears that the claimant was a member of the Tamil Nadu Building Construction Workmen Welfare Board, Chennai. The said Board had entered into an arrangement with the second respondent insurance company. If the members of the said Board suffered any injury, the same was covered by the insurance policy. But in the ID Card, which is issued in favour of appellant herein it is mentioned that the membership must be renewed on 03.06.2006. Unfortunately, for the claimant, he did not get his membership renewed. His membership was renewed only on 04.06.2008. The accident in question took place on 03.12.2007. If the second respondent had not discharged the obligation cast on the insured, the remedy is up to the claimant to go before the consumer forum. In any event, the Deputy Commissioner of Labour for workmen compensation, Tirunelveli would not have jurisdiction to pass an award against the second respondent. The Deputy Commissioner of Labour, Tirunelveli would have authority and jurisdiction to pass an award against the second respondent, only if it is shown that there is a contractual arrangement between the employer and the insurance company. In this case there is absolutely no such arrangement between the employer and the Insurance company. The workman had not adduced any evidence to show that he was an employee under the said Narayanathevar. There is a complete absence of material to pass an award in favour of the workman. Therefore, the Deputy Commissioner, Thirunelveli rightly came to the conclusion that the claimant workman did not discharge the onus cast on him. The Civil Miscellaneous Appeal stands dismissed. No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The Deputy Commissioner of Labour,
Tirunelveli.

Copy to

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

+1cc to Mr.Ananth C.Rajesh, Advocate Sr.No.88549

+1cc to Mr.V.Angusamy, Advocate Sr.No.88631

KMI

VB/CVC/SAR2/01.03.2018/2P/6C