



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.65 of 2015

1.P.Shanthi

2.Minor Premkumar

3.Minor Dhanalakshmi

(Minor Appellants rep.by
their next friend and natural
guardian P.Shanthi, 1st appellant) ... Appellants/Petitioners
Vs.

1.Selvamani

2.M/s.Iffco Tokiyo General Insurance
Company Limited,

No.28, (Old No.195) 1st and 2nd Floor,
North Usman Road, T.Nagar,
Chennai - 600 017.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 30 Workmen Compensation Act, against the order dated 30.09.2010 made in W.C.No.220 of 2007 on the file of the Court of Deputy Commissioner of Labour (Workmen Compensation Act) Dindigul.

For Appellants	: Mr.N.Sudhagar Nagaraj
For Respondents	: Mr.S.Srinivasa Raghavan for R2 No appearance for R1

JUDGMENT

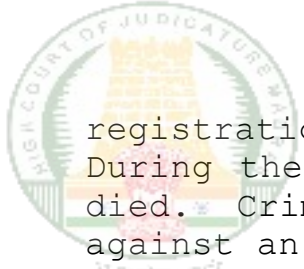
This Civil Miscellaneous Appeal has been preferred by the claimants aggrieved by the dismissal order dated 30.09.2010 made in W.C.No.220 of 2007 on the file of the Court of Deputy Commissioner of Labour (Workmen Compensation Act) Dindigul.

2.This appeal is admitted. The following substantial questions of law arising for consideration:

"Whether the Commissioner for workmen compensation (Deputy Commissioner of Labour) Dindigul is correct in fastening the liability into with the appellant herein?".

<https://hcservices.ecourts.gov.in/hcservices/>

3.The claimants are the legal heirs of one Periyasamy. He was aged 35 years and he was working as a Cleaner in the lorry bearing



registration No.TN 57 Y 2158 belonging to the first respondent. During the course of his employment, he met with an accident and died. * Crime No.166/2007 was registered by the driver of the lorry against an unidentified vehicle. Since the accident took place in the course of his employment and the vehicle was also insured with the second respondent herein, the claimants filed W.C.No.220/2007 seeking payment of Rs.10,00,000/- as compensation. The Tribunal awarded a sum of Rs.3,61,513/- with interest. However, the Commissioner for Workmen Compensation exonerated the insurance company. This was because, even though the lorry was insured with the second respondent insurance company, the policy stood in the name of one Sakthivel. There was no employer employee relationship between the said Sakthivel and the deceased Periyasamy. The deceased was working as Cleaner only with the first respondent Selvamani. Even though there was sale of the lorry by Sakthivel in favour of the Selvamani on 09.08.2006 and the accident date is 18.01.2007, there was no transfer of the insurance policy in favour of Selvamani. It was on this ground that the insurance company was exonerated.

4.But, the ground on which the insurance company was exonerated is not correct in view of the decision of this Court reported in **2015 (1) TN MAC 176 (New India Insurance Co., Ltd, V.Periyaiah)**. This Court following the decision of the Hon'ble Supreme Court held that even though the purchaser of the vehicle had not taken a new policy, the existing insurance policy in respect of the vehicle will also be deemed to have been transferred in favour of the new owner in view of the Section 157 of Motor Vehicles Act. Therefore, the substantial question of law raised in this appeal namely, whether fastening the liability on the vehicle owner alone and exonerating the insurance company is correct is answered in negative in view of the decision of the Hon'ble Supreme Court reported in **2014 (4) SCALE 627 (Mallamma (Dead) by L.Rs. V. National Insurance Co. Ltd and others)**.

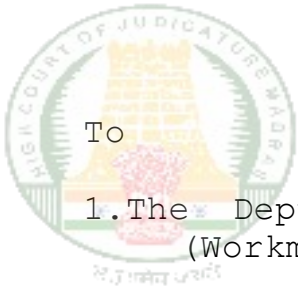
5.The award passed by the Commissioner for Workmen Compensation in WC.No.220/2007 is modified and the liability to pay the compensation of Rs.3,61,513/- is fixed jointly and severally on the respondents herein. The award dated 30.09.2010 made in W.C.No.220 of 2007 on the file of the Deputy Commissioner of Labour (Workmen Compensation Act) Dindigul is accordingly modified.

6.This Civil Miscellaneous Appeal is allowed as indicated above. No costs.

Sd/-

Assistant Registrar(P & A)

/True Copy/



To

1.The Deputy Commissioner of Labour
(Workmen Compensation Act), Dindigul

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

+1cc to Mr.N.Sudhagar Nagaraj Advocate in SR. No. 83195

+1cc to Mr.S.Srinivasa Raghavan Advocate in SR. No. 83213

SKM

JS/MR.KKR/SAR.1/8.11.2017/3P-5C

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