



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2017

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THE HONOURABLE MRS.JUSTICE J. NISHA BANU

C.M.A. (MD) No.1956 of 2013

The Oriental Insurance Co.Ltd.,
No.4, Bharathidasan Road,
Cantonment, Trichy.

.. Appellant/3rd respondent**Vs.**

1.Thenmozhi
2.Minor Anandan
3.Minor Gopinathan
4.Sembayee

.. 1st to 4th Respondents/
1st to 4th Petitioners

5.Selvaraj .. 5th Respondent/1st Respondent
6.Gnanasekar .. 6th Respondent/2nd Respondent
(5th and 6th respondents remained exparte
before the lower Court)

Prayer:- Appeal filed under Section 30 of Workmen Compensation Act, to set aside the Award of Rs.6,06,925/- (Rupees Six Lakhs Six Thousand Nine Hundred and Twenty Five Only) passed in W.C.No.140/2011, dated 04.01.2013, on the file of the Commissioner for Workmen's Compensation, (Deputy Commissioner of Labour), Trichirappalli.

For Appellant : Mr.K.Bhaskaran
For R1 to R3 : Mr.N.Sudhakar Nagaraj
For R5 : No Appearance
R4 and R 6 Notice awaited.

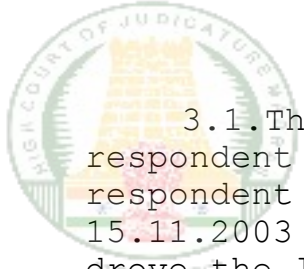
JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company against the award, dated 07.02.2008 made in W.C.No.13 of 2005 by the Deputy Commissioner of Labour, Madurai.

2.Before the trial Court, the appellant herein is the third respondent; the first respondent herein is the petitioner and the respondents 2 and 3 herein are respondents 1 and 2.

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

3. The case of the claimant in the petition is briefly as follows:



3.1. The petitioner was working as a lorry driver under respondent No.1, who is the owner of the lorry. The second respondent is the Manager cum agent of respondent No.1. On 15.11.2003 as per direction of the respondent No.1, the claimant drove the lorry bearing registration No.TN 60 B 6777 from Varichiyur to Manamadurai sand quarry. At Rajakambeeram Village, loose soil and gravels were levelled on both sides of the road. In the lorry, the second respondent and five other loadmen were travelling. At about 3.30 p.m., when the lorry was nearing Bombay car motor shed at Rajakambeeram Village, the petitioner drove the lorry in the extreme left side of the road and in a slow speed by observing the traffic rules. Since the left side wheels of the lorry were going on the loose soil levelled in the extreme left side, the lorry capsized and fell on the left side of the road. In the accident the petitioner sustained severe injuries and other loadmen also sustained injuries. So, he filed a claim petition before the Deputy Commissioner of Labour, Madurai, claiming a sum of Rs.3,00,000/- as compensation.

4. Before the Tribunal on the side of the petitioner, P.Ws.1 & 2 were examined and Exs.P1 to P9 were marked. On the side of the respondents, R.W.1 was examined and Exs.R1 to R6 were marked. The case sheet of Madurai Government Rajaji Hospital was marked as C1.

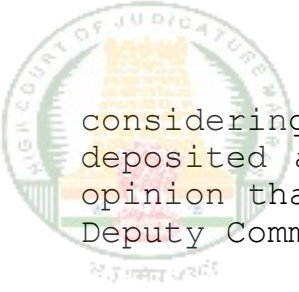
5. On consideration of the evidence available on record, the Deputy Commissioner of Labour, Madurai, has awarded a sum of Rs.1,33,222/- and the same was directed to be deposited by the Insurance Company, the appellant herein, within thirty days from date of receipt of a copy of that order, failing which, they should deposit the same with interest at the rate of 12%. Aggrieved over the said award, the Insurance Company is before this Court.

6. The learned counsel appearing for the appellant would mainly argue that there is no statutory coverage for a clearer and there is no employer and employee relationship between the deceased and the owner of the vehicle.

7. The learned counsel appearing for the respondents 1 to 3/claimants 1 to 3 would draw the attention of this Court to the finding of the Commissioner in page No.3, wherein it has been observed that a perusal of the evidence Ex.A.1 would prove the accident and there is no evidence on the side of the appellant Insurance Company to disprove the accident. He would also submit that the entire award amount has already been deposited and the same was withdrawn by the claimants.

8. Heard the learned counsel for the appellant as well as the learned counsel for the first respondents 1 to 3.

9. Keeping the submissions made by the learned counsel for the appellant Insurance Company, I have carefully perused the materials available on record and I do not find any infirmity in the order passed by the Commissioner in awarding the compensation. Also,



considering the fact that entire award amount has already been deposited and the same was withdrawn by the claimant, I am of the opinion that no interference is necessary in the award passed by the Deputy Commissioner of Labour, Tiruchirappalli.

10. In the result, this Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Deputy Commissioner of Labour,
Trichirappalli.

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

+ 1 CC TO Mr.N.SUDHAGAR NAGARAJ, ADVOCATE IN SR No. 70111
+ 1 CC TO Mr.K.BHASKARAN, ADVOCATE IN SR No. 70058

CM

TE/JC/SAR-I : 22/08/2017 : 3P/5C

C.M.A. (MD) No.1956 of 2013
03.08.2017