



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No. 729 of 2013

and

M.P.(MD)No.1 of 2013

The Divisional Manager,
M/s. United India Insurance Company Ltd.,
No.42, Madatheru,
Kumbakonam-1. ... Appellant / Respondent No.2.

Vs.

1.Thiru.S.Manikandan ... Respondent No.1/ Petitioner

2.Mydeen ... Respondent No.2/ Respondent No.1.

PRAYER:- Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, against the order passed in W.C.No.102 of 2009, dated 28.03.2012 on the file of the Deputy Commissioner for Workmen's Compensation, Thiruchirapalli.

For Appellant : Mr.C.Jawahar Ravindran

For R1 : Mr.J.Ananda Kumar

For R2 : 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 28.03.2012 made in W.C No.102 of 2009 on the file of the Deputy Commissioner for Workmen's Compensation, Thiruchirapalli.

2.The first respondent filed W.C.No.102 of 2009 before the learned Deputy Commissioner for Workmen's Compensation, Thiruchirapalli, claiming a sum of Rs.5,00,000/- as compensation for the grievous injuries sustained by him in an accident occurred during the course of his employment under the second respondent.

3.In the counter affidavit, it is stated that there is no relationship of employer and employee amongst the first respondent



and petitioner. There is no merit in the petition and the same deserves to be dismissed.

4. On the basis of the available evidence on record, the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Tiruchirappalli has awarded a sum of Rs.2,03,318/- and against the award passed by the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Tiruchirappalli the present Civil Miscellaneous Appeal has been preferred at the instance of the second respondent as appellant.

5. The learned counsel appearing for the appellant/second respondent has attacked the impugned award passed by the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Tiruchirappalli on the ground that there is no relationship of employer and employee has been existence amongst the first respondent and petitioner.

6. Per contra the learned counsel appearing for the first respondent/petitioner has contended that the vehicle which involved in the accident absolutely belongs to the first respondent and the same has been insured with the second respondent and on 18.07.2008 the same has been driven by the petitioner and subsequently accident has happened and due to that the present petition has been filed and the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Tiruchirappalli after considering the available evidence on record has passed the impugned award and therefore the contentions put forth on the side of the appellant/second respondent are liable to be rejected.

7. It is an admitted fact that the Auto bearing registration No.TN-49-R-2679 belongs to the first respondent (owner of the vehicle) and the same has been insured with the present appellant/second respondent.

8. The main objection raised on the side of the appellant/second respondent is that there is no employer and employee relationship amongst the first respondent and petitioner. As stated earlier the first respondent is the owner of the auto bearing registration No.TN-49-R-2679 and the same has been insured with the second respondent.

9. Considering the fact that the first respondent is the owner of the said vehicle and also considering that in the petition it has been clearly stated that on the date of accident the petitioner has driven the same as its driver, it is very clear that the petitioner has clearly established the alleged relationship of employer and employee amongst the first respondent and petitioner. Therefore the attack made on the side of the appellant/second respondent goes out without merit. Hence, the

present Civil Miscellaneous Appeal deserves to be dismissed.

10. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 28.03.2012 made in W.C No.102 of 2009 on the file of the Deputy Commissioner for Workmen's Compensation, Thiruchirapalli., is confirmed. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of four weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the claimant is permitted to withdraw the same, with accrued interests and costs. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To,

1. The Deputy Commissioner for
Workmen's Compensation,
Thiruchirapalli.
2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr.C.Jawahar Ravindran , Advocate in SR.No. 73347
+1 cc to Mr.J.Anand Kumar , Advocate in SR.No. 73076

rj2

AE/KP/SAR3/12.09.2017/3P/5C

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