



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

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C.M.A(MD)No.481 of 2011

and

M.P(MD).No.1 of 2011

New India Assurance Co.Ltd
through its Divisional Manager,
242B, Kamarajar Salai, Madurai-625 009.

... Appellant /Respondent No.2

Vs.

1. Tmt.Vairam
2. Minor Ananthakumar
3. Minor Rajkumar

... Respondents 1 to 3/ Petitioners

4. Thiru.N.Natarajan

... 4th Respondent /Respondent No.1

PRAYER:- Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, against the order dated 09.09.2009 passed in W.C.No.136 of 2005 on the file of Workmen Compensation Commissioner (Deputy Commissioner of Labour), Madurai.

For Appellant : Mr.G.Prabhu Rajadurai
For Respondent No.1 to 3 : Mr.C.Godwin

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant against the order dated 09.09.2009 passed in W.C.No.136 of 2005 on the file of Workmen Compensation Commissioner (Deputy Commissioner of Labour), Madurai.

2.It is the case of the claimants before the Tribunal that on 13.11.2004, the deceased Natchiappan was driving the first respondent bus bearing registration No.TN 57 F 3351 from Madurai to Dindigul and from Dindigul to Madurai continuously without getting any rest interval from 13.11.2004 morning to 14.11.2004 under the direction of the first respondent. Due to heavy work and strain as well as owing to the continuous duty from 13.11.2004, the deceased collapsed and died of heart attack on 14.11.2004. Thereafter, inspite of best treatment given in the hospital, he died on 14.11.2004 during the course of employment.

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

3. Therefore, the claimants filed an application in W.C.No.136



of 2005 on the file of Workmen Compensation Commissioner (Deputy Commissioner of Labour), Madurai, seeking compensation.

4. Before the Workmen Compensation Commissioner (Deputy Commissioner of Labour), Madurai, on the side of the petitioners/Claimants one witness was examined as P.W.1 and six documents were marked as Ex.A.1 to Ex.A.6. On the side of the respondents, one witness was examined as R.W.1 and four documents were marked as Ex.R.1 to Ex.R.4.

5. After considering all the materials and evidence, the Deputy Commissioner of Labour, Tirunelveli, awarded compensation of Rs.3,76,501/- and directed the appellant to pay the compensation.

6. Challenging the said award, the appellant has preferred this appeal on the ground that the death did not occur during the course of employment.

7. The learned counsel for the appellant would submit that there was no trip sheet to substantiate that the deceased was working continuously for two days and there was no materials to show that the deceased was under stress due to work, which caused his death.

8. Per contra, the learned counsel for the respondents submitted that the Deputy Commissioner, has given a clear finding based on the evidence available on record that the deceased was employed as a Driver of the bus, by the appellant.

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

10. A perusal of the award passed by the Commissioner clearly shows that the Tribunal has discussed in detail that in the complaint it was stated that the deceased was working as a driver of the appellant bus on 13.11.2004 from Madurai to Dindigul and Dindigul to Madurai continuously without rest, as per the direction of the fourth respondent herein and due to heavy work and strain, he died of heart attack on 14.11.2004 and therefore, there is no infirmity in the award passed by the Tribunal and the same does not require interference at the hands of this Court.

11. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 09.09.2009 passed in W.C.No.136 of 2005 on the file of Workmen Compensation Commissioner (Deputy Commissioner of Labour), Madurai, 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



claimants are permitted to withdraw their share as apportioned by the Tribunal, with accrued interests and costs. No Costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1. The Deputy Commissioner of Labour,
Workmen Compensation Commissioner,
Madurai.

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

+ 1 CC TO MR.G.Prabhu Rajadurai, ADVOCATE IN SR No.75604

+ 1 CC TO MR.C.Godwin, ADVOCATE IN SR No.75440

raj2

MK/SV MMS/SAR-3/26.09.2017/3P/5C

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