

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.1722 OF 2007  
AND M.P.NOS.3 OF 2007 AND 1 OF 2010

The Oriental Insurance Company Ltd.,  
U.L.I. Building  
No.8, Esplanade,  
Chennai.

.. Appellant/2<sup>nd</sup> Respondent

Vs.

1.Inipotham  
2.E.Devaraj

.. Respondent/Petitioner  
.. Respondent /1<sup>st</sup> Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of Workmen Compensation Act, 1923, against the order passed in W.C.No.177 of 2005 dated 13.02.2006 by the Workmen Compensation Commissioner II / Deputy Commissioner of Labour No.II, Chennai - 600 006 in so far as the appellant herein.

For Appellant : Mr.M.Rajasekhar  
For Respondent-1: Mr.M.Sudhakar -No App

J U D G M E N T

This Civil Miscellaneous Appeal is directed against the order passed by the Authority under Workmen Compensation Act, in W.C.No.177 of 2005 dated 24.02.2006.

2. Insurance Company is the appellant. According to the appellant- insurance company, the claimant - first respondent was not only a driver but also the owner of the vehicle having purchased the vehicle on 21.12.2004. The accident had taken place on 23.01.2005. A specific counter was filed before the Authority under the Workmen Compensation Act setting out the details of purchase as well as the delivery letter issued by the applicant by first opposite party confirming the delivery as well as the payment of entire sale consideration. This point was not considered by the Authority. Had it been considered, a decision would have been taken that the claimant is not entitled to claim compensation as a workman, as he himself is the owner, the course of judgment could have been changed. But the Authority has refused to consider

the same in spite of there being pleadings to this effect. Hence, the appeal.

3. I have gone through the materials on record and the award passed by the Authority.

4. It is seen that before the Authority, the claimant has examined himself as WW1 and the Doctor, who issued disability certificate as WW2 and marked Exs.W1 to 12. The accident stood proved. The injury and the disability of the claimant as Driver was also proved. Ex.W9 is the driving licence; Ex.W4 is the insurance policy and Exs.W2, W3 and W8 are the medical records. The insurance policy as well as the Registration Certificate shows the second respondent as the owner of the vehicle and the vehicle is covered by the insurance policy - Ex.W4. Even though the appellant has taken a specific plea that the ownership of the vehicle has been transferred in favour of the claimant, they have not let in any evidence to support the same nor marked any documents to substantiate the pleadings.

5. It is well settled that pleadings will not amount to proof. In the absence of any proof, this Court is not inclined to interfere with the order passed by the Authority. Since the accident, injury and avocation of the claimant are proved, the appellant - insurance company is liable to pay the compensation.

6. Learned counsel for the appellant - insurance company has submitted that they have already deposited the entire award amount.

7. In such circumstances, the Civil Miscellaneous Appeal merits no consideration and accordingly stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To  
The Workmen Compensation Commissioner II  
/ Deputy Commissioner of Labour No.II  
Chennai - 600 006.

+ 1 cc to Mr.M.Raja Sekhar, Advocate Sr.No.1352

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RRI 11/04/2018



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