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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.08.2017

Pronounced on : 28.03.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.929 of 2014

and

M.P(MD)No.1 of 2014

M/s.Royal Sundaram Alliance
Insurance Company Ltd.,
Madurai- 625 001,
Represented by its,
Branch Manager.

... Appellant / 2nd Respondent

vs.

1.Ramasami
2.Manimekalai
3.Revathi

... Respondents 1 to 3 / Petitioners

4.R.Mathivanan

... 4th Respondent / 1st Respondent

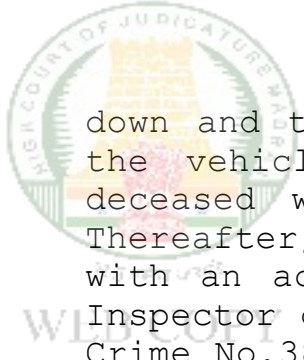
PRAYER:- Civil Miscellaneous Appeal filed under Section 30 of Workmen Compensation Act, against the award dated 28.10.2013 made in W.C.No.243 of 2009 on the file of the Commissioner of Workmen Compensation (Deputy Commissioner of Labour), Trichy, served on 05.03.2014.

For Appellant :Mr.S.Srinivasa Raghavan
For R-1 to R-3 :Mr.S.Krishnamoorthy
For R-4 :No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company Limited against the award dated 28.10.2013 made in W.C.No.243 of 2009 on the file of the Commissioner of Workmen Compensation(Deputy Commissioner of Labour), Trichy.

2.The deceased Alagudurai was working as a cleaner in the vehicle bearing registration No.TN-64-F-6318 belonging to the 4th respondent/employer. On 22.05.2008, while the deceased was travelling as a Cleaner in the said vehicle, the vehicle got break



down and the deceased was sent to bring a mechanic for repairing the vehicle in question and after repairing the vehicle, the deceased was sent to drop the mechanic in the mechanic shed. Thereafter, while returning to the place of work, the deceased met with an accident and died on the spot. Pursuant to which, the Inspector of Police, Perambalur Police Station registered a case in Crime No.382 of 2008. Thereafter, the respondents 1 to 3/claimants filed a claim petition in W.C.No.243 of 2009 on the file of the Commissioner of Workmen Compensation (Deputy Commissioner of Labour), Trichy, claiming compensation for the death of the deceased.

3.Before the Deputy Commissioner of Labour, father of the deceased/1st respondent herein examined himself as P.W.1 and Ex.P.1 to Ex.P.6 were marked on the side of the claimants.

4.The Deputy Commissioner of Labour, after considering the oral and documentary evidence and arguments made on either side, held that the accident occurred only during the course of employment of the deceased in the vehicle belonging to the 4th respondent insured with the appellant and therefore, fastened liability on the appellant/Insurance Company to pay a sum of Rs.4,59,580/-, as compensation to the respondents 1 to 3/claimants. Aggrieved by the said award, the appellant has filed the present appeal. Though the appellant has filed the present appeal questioning the quantum and liability, this Court by order dated 26.08.2014 admitted the same only on the following substantial question of law:-

"Whether the respondents 1 to 3 have proved the relationship of employee and employer and the findings of the Commissioner of Labour for Workmen Compensation, Tiruchirapalli, is perverse as contended by the appellant?"

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

6.As far as the substantial question of law is concerned, before the Deputy Commissioner of Labour, the appellant themselves filed reply statement and written arguments stating that the deceased died during the course of employment under the 4th respondent and therefore, the Deputy Commissioner of Labour held that it is proved that the deceased was working as an employee under the 4th respondent herein and he died during the course of employment. This Court finds no infirmity in the said finding. Accordingly, the substantial question of law is answered in favour of the respondents 1 to 3/claimants.

<https://hcservices.e-governance.gov.in/hcservices/> stated by the appellant that the entire award amount has already been deposited by them with accrued interests and costs to the credit of the claim petition. Therefore, the



respondents/claimants are permitted to withdraw the said amount without filing any formal petition.

8. Accordingly, this Civil Miscellaneous Appeal is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

bala

To

The Commissioner of Workmen Compensation
(Deputy Commissioner of Labour), Trichy.

Copy to:-

The Record Keeper, (2 COPIES)
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

+1 CC TO Mr. S.SRINIVASA RAGHAVAN , Advocate, Sr.No. 58830

+1 CC TO Mr.S.KRISHNAMOORTHY , Advocate, Sr.No. 58543

JAM/01/06/2018/ CM/ SAR 3/ 3P-6C

Pre-delivery Judgment made in
C.M.A (MD) No.929 of 2014
and
M.P. (MD) No.1 of 2014
28.03.2018