



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:23.01.2018

CORAM :

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P. (PD) (MD) No.295 of 2011

and

M.P. (MD) 1 of 2011

National Insurance Company Ltd.,
Branch Office,
No.92, Thevarpuram Road,
Thoothukudi.

.. Petitioner/2nd Respondent/
2nd Respondent

vs.

1.Ponnammal
2.Minor Arumugagani
3.Minor Kavitha

(Minor respondents 2 and 3 are represented by their Mother and guardian 1st respondent)

4.Manthirathammal

... Respondents/Petitioners/
Petitioners

5.M.Jeyalakshmi

... Respondent/1st Respondent
1st Respondent

PRAYER: Petition filed under Section 115 of C.P.C., set aside the order dated 22/11/2010 made in W.C.No.3 of 2010 in W.C.No.38 of 2009 on the file of Commissioner of Workmen Compensation (Deputy Commissioner of Labour), Tirunelveli.

For Petitioner : M/S.K.R.Shiva shankari
For R1 to R4 : Mr.T.Selvakumaran
For R5 : Mr.G.Prabhu Rajadurai

ORDER

The petitioner who is the second respondent in W.C.No.38 of 2009 has filed the present revision against the order dated 22.11.2010 passed in W.C (I.A)No.3 of 2010) in W.C.No.38 of 2009 by the (Deputy Commissioner (Labour), Labour of Workmen Compensation, Tirunelveli).

2.The 5th respondent who is the owner of the vehicle and his counsel are present. The other respondents are the claimants.



3.The claimants who are the wife, children and mother of the deceased Sudalai Esakki have filed a claim application in W.C.No.38 of 2009 before the (Deputy Commissioner (Labour), Labour of Workmen Compensation, Tirunelveli, seeking for compensation of Rs.3,79,120/- against the petitioner-Insurance Company and the 5th respondent-owner of the vehicle for the death of Sudalai Esakki during the course of his employment on 23.04.2008.

4.During the pendency of the compensation proceedings, the petitioner-Insurance Company filed I.A.No.3 of 10 in W.C.No.38 of 2009 seeking to exonerate them from the above compensation proceedings initiated by the claimants, on the ground that they have been improperly arrayed as a party respondent.

5.The Trial Court after hearing both sides by the impugned order dated 22.11.2010, dismissed the Interlocutory Application holding that the relief sought for by the petitioner-Insurance Company has to be decided only at the time of disposal of the main compensation proceedings and not in the Interlocutory Application. Challenging the same the petitioner-Insurance Company has filed the present revision.

6.Heard the learned counsel for the petitioner and the learned counsels appearing for the respondents.

7.The issue involved in this matter is whether the petitioner-Insurance Company is a necessary party to the compensation proceedings or not.

8.The fact remains that the accident occurred when the deceased was on employment. The Tribunal has rightly found that whether the petitioner-Insurance Company is liable to pay compensation and whether the insurance policy taken by the deceased and its particulars are applicable or not, is the issue to be decided only at the time of disposal of the compensation proceedings and not in the exoneration petition. In such view of the matter, this Court is of the view that the impugned order of the Trial Court does not call for any interference from this Court and the revision filed by the petitioner-Insurance is liable to be dismissed.

9.In the result the Civil Revision Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/



To

1. The Commissioner of Workmen Compensation
(Deputy Commissioner of Labour),
Tirunelveli.

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

+ 1 cc TO Mr.G.Prabhu Rajadurai , Advocate in SR No. 43865
+ 1 cc TO Mr.S.Srinivasa Raghavan , Advocate in SR No. 43568
+ 1 cc TO Mr.T.Selvakumaran , Advocate in SR No. 43693

dss

AE/SV MMS/SAR2/19.03.2018/3P/7C

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