

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1113 of 2006

National Insurance Company Ltd,
Branch Office 1,
Thanthai Periyar Market Complex,
Post Box No.15, No.1,
Govindasamy Pillai Street, Near Old
Bust Stand, Salem- 636 001.Appellant

vs

1.R.Maheswaran

2.G.SelvarajRespondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 of Workmen's Compensation Act, 1923, against the order of the Learned Commissioner for Workmen's Compensation, Salem made in W.C.No.365 of 2004 dated 05.12.2005.

For Appellant : M/s.R.Sreevidhya

For R1 : Mr.R.Nalliyappan

J U D G M E N T

The Appellant Insurance Company is aggrieved by the impugned order dated 05.12.2005 passed by the Commissioner for Workmen's Compensation in W.C.No.365 of 2004. By the impugned order, the Commissioner for Workmen's Compensation has awarded a sum of Rs.5,03,748/- as compensation to the 1st respondent who was aged 25 years at the time of the accident.

2.Before the Commissioner for Workmen's Compensation, it was the case of the 1st respondent that he met with an accident while driving lorry bearing registration No TNB 2496 of the 2nd respondent owner of the lorry. In the said proceedings, the 1st respondent claimed the compensation of Rs.9 lakhs. In the said proceeding, the appellant had denied the liability and it was submitted that the appellant may be permitted to take all differences that are available to it under Section 170 of the Motor Vehicles Act, 1988.

3. In the present appeal, the appellant has disputed the quantum of compensation that has been ordered. The appellant has raised three substantial questions of law which read as under:-

- i. Whether the learned Commissioner is correct in taking the disability as 100% , when the qualified medical practitioner examined as AW-2 assessed the disability as 75%?
- ii. Whether the Commissioner can assess the disability on his own, when the Workmen's Compensation Act, 1923 provides that disability towards loss of earning capacity shall be assessed only by a qualified medical practitioner?
- iii. Whether the learned Commissioner is correct in awarding compensation when he had not followed the provisions of Sec. 4[1][c][ii] of the Workmen's Compensation Act, 1923.

4. By an order dated 07.07.2006, interim order granted on 12.04.2006 was made absolute subject to the condition that the 1st respondent-workmen be allowed to withdraw 50% of the amount deposited before the Commissioner for Workmen's Compensation (Deputy Commissioner Of Labour), Salem and without furnishing a security that the balance amount shall be invested in a nationalised bank proximate to the place of the residence of the 1st respondent-worker.

5. Heard the learned counsel for the appellant. I do not find any merits in the present Civil Miscellaneous Appeal. The questions raised by the appellant are not questions of law but questions of fact. The order passed by the Commissioner for Workmen's Compensation (Deputy Commissioner Of Labour), Salem is well reasoned and requires no interference.

6. The present Civil Miscellaneous Appeal is dismissed. No cost.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1.The Commissioner for Workmen's Compensation,
Salem.

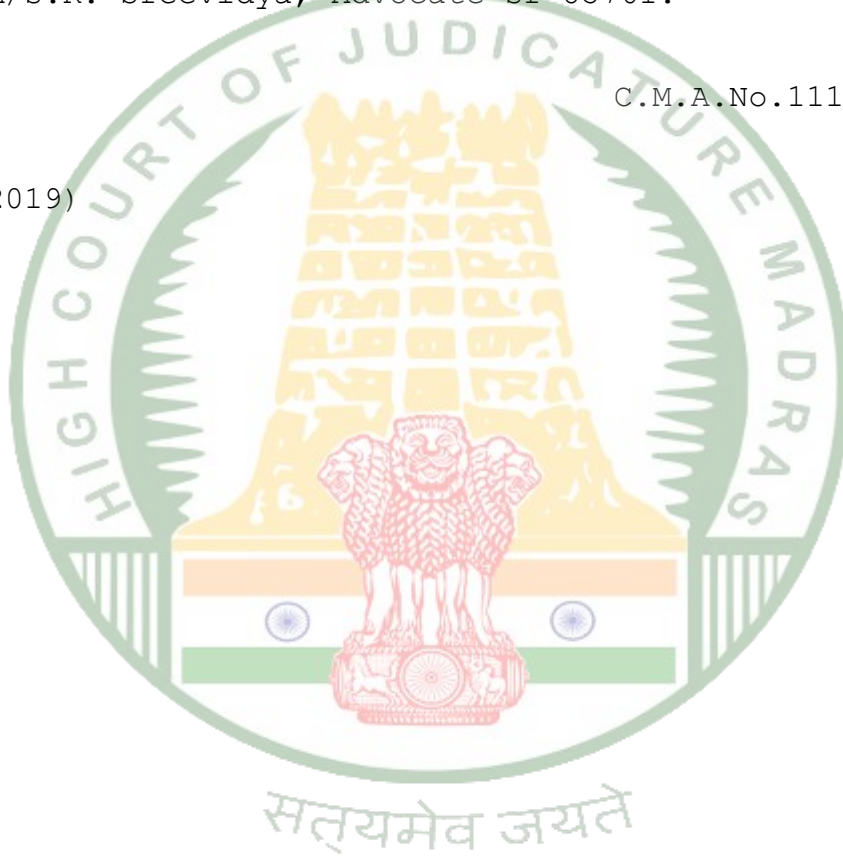
Copy to
The Section Officer,
V.R. Section, High Court, Madras.

+1 CC to Mr.R.Nalliyappan, Advocate sr 85692.

+1 CC to M/s.R. Sreevidya, Advocate sr 85761.

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SSD(CO)
SP(13/11/2019)



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