

IN HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2306 of 2004

and

C.M.P.No.13762 of 2004

United India Insurance Co.
Dharapuram.

...Appellant/2nd opp Party

vs

1.P.Geetha

2.P.Nachimuthu

3.N.Palaniammal

4.T.Rajamanickam

...Respondents/Applicants

Prayer: Civil Miscellaneous Appeal filed under Section 30 of Workmen's Compensation Act, 1923, against the judgment and decree dated 10.11.2003 (delivered on 13.02.2004) made in W.C.No.16 of 2002 on the file of the Commissioner for Workmen's Compensation, Deputy Commissioner for Labour, Coimbatore.

For Appellant : M/s.Harini for Mr.M.B.Gopalan

For R1 : Not ready in notice

For R2 to R4 : No appearance.

J U D G M E N T

The appellant is aggrieved by the impugned order dated 10.11.2003 (delivered on 13.02.2004) passed by the Deputy Commissioner for Labour, Commissioner for Workmen's Compensation, Coimbatore in W.C.No.16 of 2002.

2.The case involves a fatal accident involving the death of one Paramasivam. The deceased Paramasivam was the driver of the Tata Sumo bearing Registration No.TN.37 L 6222 which was involved in a road accident on 21.11.2001.

3.According to the appellant, though the vehicle was registered in the 4th respondent's name and the vehicle 's R.C Book and insured with the appellant, the said vehicle had been sold by the 4th respondent to one Dhamotharan in the year 1999 and therefore, there was no employee and owner relation between the deceased Paramasivam and the 4th respondent Rajamanickam.

4.In the impugned order the Deputy Commissioner for Labour, Commissioner for Workmen's Compensation, Coimbatore has concluded that in absence of direct evidence to substantiate that the vehicle had been transferred to

Dhamodharan, the liability would be on the 4th respondent and consequently, on the appellant with whom the vehicle was insured.

5.The appellant placed reliance on the final report of Investigator which stated that the vehicle was being driven by the deceased from Madurai to Paladam and that it belonged to one Deepam Garments.

6.The learned counsel also referred to the investigation report of the investigator wherein in paragraph 9 it was confirmed that the deceased Paramasivan was employed with Deepam Garments and therefore, the appellant cannot be fastened to the liability under the Act.

7.Reference was also made by the cross examination of the 4th respondent who has also confirmed in the cross examination that the vehicle has been sold in the year 1999 to one Dhamodharan and there was name was not transferred at the time of accident on 21.11.2001. However, there is no direct evidence to substantiate the plea of the appellant. In any event, the appellant being the insurer of the vehicle is liable to compensate. If desired the appellant can pay and recover the amount from the 4th respondent.

8.Accordingly, the present Civil Miscellaneous Appeal is dismissed with liberty to recover the amount in accordance with law from the 4th respondent. No cost. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

1.The Deputy Commissioner for Labour,
Commissioner for Workmen's Compensation,
Coimbatore.

2.The Section Officer,
V.R. Section, High Court, Madras.

+1 CC to Mr.M.B.Gopalan,Advocate sr 78203

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

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