

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A. No. 2313 of 2004

and

C.M.P. No. 13773 of 2004

M/s. United India Insurance Co. Ltd.,
No. 38, Anna Salai,
Chennai - 600 002. Appellant/2nd Respondent

Vs

1. K. Kamsala
2. Chandra
3. Selvi Saritha
4. Selvi Sabitha Respondents 2 to 4

Prayer: Civil Miscellaneous Appeal has been filed under Section 30 of the Workmen's Compensation Act, 1923, against the Judgment and Decree dated 29.08.2003 made in W.C. No. 165 of 2000 on the file of the Deputy Commissioner of Labour, Salem served on the Appellant only on 10.02.2004.

For Appellant : Mr. C. Paranthaman

For R1, R3 & R4 : Not ready in notice

For R2 : No appearance

JUDGMENT

The Appellant is the Insurance Company and it is aggrieved by the impugned order dated 29.08.2003 passed by the Deputy Commissioner of Labour-2, Chennai in W.C. No. 165 of 2000.

2. The learned counsel for the Petitioner submits that the claimants had also filed civil miscellaneous appeal vide C.M.A. No. 2387 of 2004 and therefore the case should be clubbed. However, it is noticed that the said appeal filed by the claimants who are the dependants of the deceased Sampath Kumar had already been disposed on 07.06.2010. The only issue raised by the Appellant in the present appeal is that the trailer in

which the deceased was travelling was not insured and therefore the Appellant cannot be held liable as they have not violated the terms and conditions of the insurance policy.

3. Notice has been served on the Respondents. There is no representation on their behalf. I do not find any reasons in this appeal pending as the appeal of the year 2004 and Workman claim petition (W.C.P) is of the year 2000.

4. The only contention raised in this appeal is that there is a violation of terms and conditions of the policy and therefore the Appellant cannot be held liable. In the present appeal, the Appellant has raised the following questions of law:

i) Whether the trailer has been insured with the appellant company as per section 2(46) of the Act?

ii) Whether the First Respondent had violated the terms and conditions of the policy and entrusted the vehicle to a person who is not duly licensed to drive the vehicle?

iii) Whether the first respondent had proved that the deceased Krishnan was an employee of the deceased Sampath Kumar and that she is the sole legal heir of the deceased?

5. I do not find any merits in this appeal. Therefore, this appeal is liable to be dismissed preferred as against order passed by the Deputy Commissioner of Labour-2, Chennai. However, liberty is given to the Appellant to recover the amount from the owners of the lorry in case the Appellant has a valid case to recover the amount.

6. Accordingly, the Civil Miscellaneous Appeal stands dismissed with the above observation. No costs. Consequently, connected civil miscellaneous petition is closed.

Sd/-

सत्यमेव जयते Assistant Registrar

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Sub Assistant Registrar

To

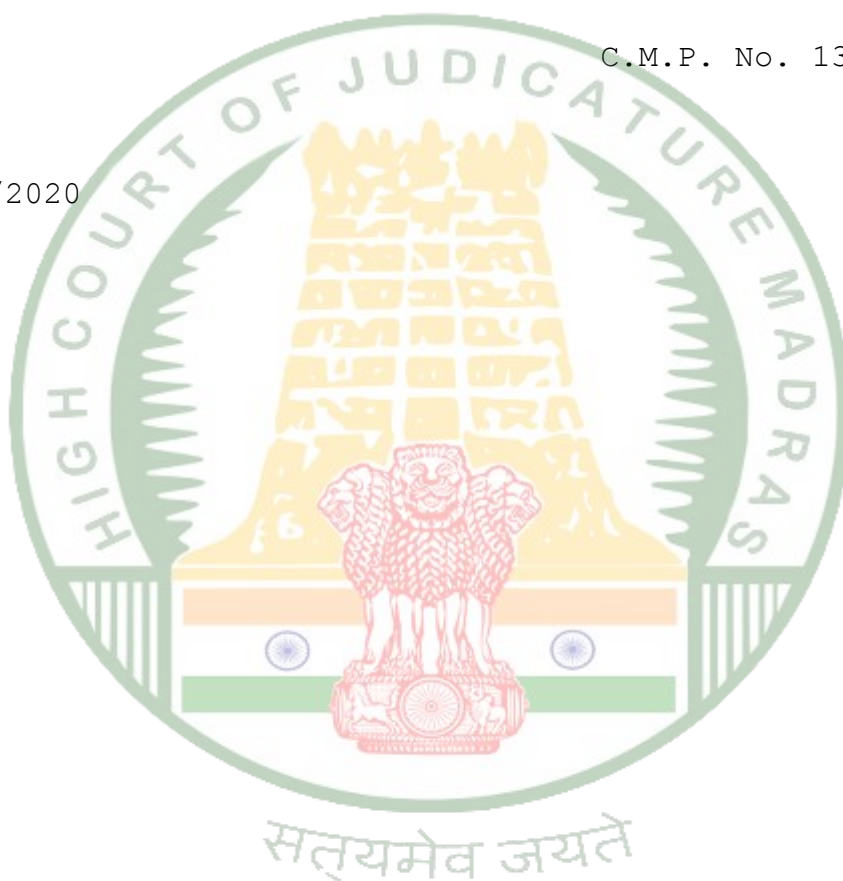
1. The Deputy Commissioner of Labour,
Salem.

2. The Section Officer,
Vernacular Section,
High Court of Madras.

+lcc to Mr.C.Paranthaman, Advocate Sr.97363

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