

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1310 of 2005

and

C.M.P.No.7268 of 2005

National Insurance Co. Ltd.,
751, Anna Salai,
Chennai 600 002. Appellant/2nd Opposite Party

vs

1.K.Kotteswaran 1st Respondent/Applicant

2.Venkatraman 2nd Respondent/Opposite Party

Prayer: Civil Miscellaneous Appeals filed under Section 30 of Workmen's Compensation Act, 1923, to set aside the award dated 16.08.2004 and made in W.C.No.59 of 2003 on the file of the Commissioner for Workmen's Compensation - I, Chennai - 600 006 (Deputy Commissioner of Labour - I) Chennai.

For Appellant : Mr.A.Ashok Kumar

For R1 : No appearance

For R2 : No such person

J U D G M E N T
सत्यमेव जयते

The appellant Insurance Company is aggrieved by the impugned order dated 16.08.2004 passed by the Commissioner for Workmen's Compensation - I, (Deputy Commissioner of Labour - I) Chennai in W.C.No.59 of 2003.

2.By the impugned order, the Commissioner for Workmen's Compensation - I, (Deputy Commissioner of Labour - I) Chennai has awarded a sum of Rs.54,926.46/- as compensation to the claimant / 1st respondent.

3.It was the case of the 1st respondent / claimant before the Commissioner for Workmen's Compensation - I, (Deputy Commissioner of Labour - I) Chennai that he was employed by the 2nd respondent herein as an Auto driver and while driving the Auto bearing registration No.TN 09 B 7819 proceeding to Chennai Central in Gowdiamudum street, he met with an accident while colluding with a car on 05.10.2002.

4.The appellant herein was disputed the liability before the the Commissioner for Workmen's Compensation - I, (Deputy Commissioner of Labour - I) Chennai stating that they had not given insurance policy cover for the aforesaid vehicle. The Commissioner for Workmen's Compensation - I, (Deputy Commissioner of Labour - I) Chennai considered and examined the Ex.R1 (Policy) and Ex.R3 (name transfer copy) filed by the appellant Insurance Company.

5.The authority has concluded that the name transfer copy was signed by the branch office of the appellant Insurance Company. There was no evidence that the appellant did not give the said transfer copy to the 2nd respondent. Therefore, the authority came to an conclusion that the auto was involved in the accident, since the policy given by the appellant Insurance Company, it was liable to pay the compensation.

6.Aggrieved by the same, the appellant Insurance Company has been filed the present Civil Miscellaneous Appeal.

7.I have perused the order of the Commissioner for Workmen's Compensation - I, (Deputy Commissioner of Labour - I) Chennai.

8.At the time of admission, this Court has framed the following substantial questions of law for consideration:-

- i. Whether the Deputy Commissioner of Labour - I has arrived at a subjective satisfaction as to whether there was employer and employee relationship existed between the first opposite party and applicant?
- ii. Whether the Deputy Commissioner of Labour-I is right in shifting the onus of proof on the appellant to disprove the case of the applicant when enough documents were filed by the appellant to disprove the case of the applicant?
- iii. Whether the Deputy Commissioner of Labour-I is right in fixing the liability on this appellant without having any privity of contract between the owner of the applicant and the appellant herein?

9.I am of the view, the appellant has only questioned the facts arrived by the Commissioner for Workmen's Compensation - I (Deputy Commissioner of Labour - I). There are no substantial questions of law in this appeal as to whether the order of the Commissioner for Workmen's Compensation - I, (Deputy Commissioner of Labour - I) Chennai is to be sustained or not in the facts of the case. Therefore, the present Civil Miscellaneous Appeal is liable to be dismissed.

10.Therefore, the present Civil Miscellaneous Appeal is dismissed. No cost. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CS-VIII)

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Sub Assistant Registrar

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To

1.The Commissioner for Workmen's Compensation - I,
(Deputy Commissioner of Labour - I)
Chennai.

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

+1cc to Mr.S.Vadivel, Advocate, SR.No.90359.

C.M.A.No.1310 of 2005
and
C.M.P.No.7268 of 2005

SJ (CO)
CSR(11/12/2019)

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