

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.NO.1973 OF 2007

AND

M.P.NO.1 OF 2007

The Oriental Insurance Company Ltd.,
No.8, Esplanade,
Chennai 108.

... Appellant

vs

1.Suresh Kumar @ Suresh
2.K.Boopathy

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, to set aside the order passed in W.C.No.9 of 2006 dated 17.04.2007 by the Workmen Compensation Commissioner II/Deputy Commissioner of Labour No.II, Chennai 600 006.

For Appellant : Mr.M.Rajasekhar

For R2 : No appearance

J U D G M E N T

The appellant Insurance Company is aggrieved by the impugned order dated 17.04.2007 passed by the Deputy Commissioner of Labour-II, Chennai in W.C.No.9 of 2006.

2.By the impugned order, the Deputy Commissioner has awarded a sum of Rs.4,85,663/- as compensation to the 1st respondent/claimant. While fixing the quantum of the compensation, the Deputy Commissioner of Labour has fixed the salary of the 1st respondent at Rs.3748.10 per month as per the G.O.Ms.No.43 dated 03.06.2003, Labour and Employment Department (J1).

3.Aggrieved by the impugned order, the present Civil Miscellaneous Appeal has been filed.

4. In this appeal, the appellant Insurance Company has raised the following substantial questions of law:-

- i. Whether the learned Commissioner is correct in holding that the 1st respondent sustained injuries during the course of employment on the basis of Ex.A1, even though the alleged accident took place on 27.04.2005 and the fate of the criminal case was not known till the disposal of the W.C?
- ii. Whether the learned Commissioner is correct in fixing the income of the 1st respondent as Rs.3,748.10 per month in the absence of document?
- iii. Whether the learned Commissioner is correct in relying upon the evidence of P.W.2 and P.W.3 for fixing the disability @ 100% in respect of non schedule injuries?
- iv. Whether the learned Commissioner is correct in holding that the 1st respondent was under the employment of the 2nd respondent during the course of accident?

5. Though the notice was ordered on the respondents, the contesting 1st respondent not yet been served. There is no representation for 2nd respondent despite the notice served to him. As no prejudice will be caused to the respondents by this order, this appeal is taken up for hearing.

6. The learned counsel for the appellant has questioned the quantum of compensation awarded to the 1st respondent by adopting wages of Rs.3,748.10 per month as per the G.O.Ms.No.43 dated 03.06.2003, Labour and Employment Department (J1). It was submitted that the computation of compensation was incorrect.

7. I do not find any substantial questions of law to be answered in this present Civil Miscellaneous Appeal. Therefore, questions of law raised by the appellant are answered against the appellant.

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

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

jen

To

1. The Workmen Compensation Commissioner II,
Deputy Commissioner of Labour No.II,
Chennai 600 006.
2. The Section Officer,
V.R. Section,
Madras High Court.

+lcc to Mr.M.Rajasekhar, Advocate, S.R.No.97702

C.M.A.No.1973 of 2007
and M.P.No.1 of 2007

NRL (CO)
CS/24/01/2020