

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.NOS.1774 & 1775 OF 2005

AND

C.M.P.NOS.9869 & 9870 OF 2005

The United India Insurance
Company Limited,
38, Anna Salai,
Chennai - 600 102.

...Appellant
in both C.M.As.

vs

1.Raji
2.Thoppachi
3.Malliga
4.Murugan
5.Pazhani (Minor)
S/o.Allimuthu

....1st to 5th respondents in
C.M.A.No.1774 of 2005

6.Chinnapayyan alias
Chinnathambi

....1st respondent in
C.M.A.No.1775 of 2005

7.M/s. B.S.R.Builders,
28, Tank Bunk Road,
Nungambakkam,
Chennai - 600 002.

....6th respondent in
C.M.A.No.1774 of 2005

&

2nd respondent in
C.M.A.No.1775 of 2005

Common Prayer:

Civil Miscellaneous Appeals filed under Section 30 of
Workmen's Compensation Act, 1923, to set aside the orders dated
09.09.2004 made in W.C.Nos.3 & 125 of 2004 passed by the Hon'ble
Deputy Commissioner of Labour - II, Chennai.

For Appellant	: Mr.B.Sathish Babu in both C.M.As.
For Respondents	: Not ready in notice in both C.M.As.

COMMON JUDGMENT

By this common judgment, both Civil Miscellaneous Appeals are being disposed.

2.The appellant Insurance Company is aggrieved by the separate orders dated 09.09.2004 passed by the learned Deputy Commissioner of Labour - II in W.C.Nos.3 & 125 of 2004.

3.By the impugned orders, the learned Deputy Commissioner of Labour - II has awarded a sum of Rs.4,07,700/- as compensation to the 1st to 5th respondents in C.M.A.No.1774 of 2005 and a sum of Rs.4,32,197/- to the 1st respondent in C.M.A.No.1775 of 2005.

4.The 1st to 5th respondents in C.M.A.No.1774 of 2005 are the legal representatives of the deceased Allimuthu who had died on 03.11.2003 in an accident.

5.The 1st respondent in C.M.A.No.1775 of 2005 and the deceased Allimuthu were the workers of the 6th respondent in C.M.A.No.1774 of 2005/2nd respondent in C.M.A.No.1775 of 2005.

6.An accident said to have taken place on 03.11.2003 when the deceased Allimuthu and the 1st the respondent in C.M.A.No.1775 of 2005 were digging on the road for Reliance Company's wiring. They were electrocuted. Both employees were taken to the V.H.S.Hospital for treatment where the said Allimuthu was declared dead on arrival. The 1st respondent in C.M.A.No.1775 of 2005 was treated for the injury.

7.Thereafter, the legal representatives of the deceased Allimuthu and the 1st respondent in C.M.A.No.1775 of 2005 filed respective claim petitions to compensation vide W.C.Nos.3 & 125 of 2004.

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8.The learned Deputy Commissioner of Labour - II has allowed both the claim petitions and has awarded as compensation a sum of Rs.4,07,700/- to the 1st to 5th respondents in C.M.A.No.1774 of 2005 (Legal representatives of the deceased Allimuthu) and a sum of Rs.4,32,197/- to the 1st respondent in C.M.A.No.1775 of 2005.

9. Aggrieved by the same, the appellant Insurance Company has filed the respective Civil Miscellaneous Appeals.

10. In these appeals, the appellant was questioned the computation of the compensation based on the statement of the employer stating that the deceased Allimuthu's and 1st respondent in C.M.A.No.1775 of 2005 were paid a daily wages of Rs.110/- per day only, whereas the claimants claimed a daily wages of Rs.300/- per day. Since there were no evidences to prove the payment of daily wages of Rs.300/- or Rs.110/-, the learned Deputy Commissioner of Labour - II has fixed the monthly wages of these two workers as Rs.4,000/- per month, as per the provisions of the Workmen's Compensation Act, 1923.

11. While admitting these two appeals, this Court on 30.06.2005 has framed the following substantial questions of law:-

- i. Whether the learned authority adopted legal and proper method in assessment of compensation?
- ii. Whether the learned authority committed error in fixing the correct age, income, percentage of disability and relevant factor in assessing the compensation on the basis of evidence on record?

12. I have considered the arguments advanced by the learned counsel for the appellant Insurance Company and the respective respondents/claimants. The appellant Insurance Company has questioned the wages and the calculation of the compensations awarded to the claimants in the impugned order.

13. In the present appeals, the appellant submits that the compensations awarded are excessive and therefore, the orders passed are liable to be set aside.

14. I have perused the records. There are no substantial questions of law to be answered in the present appeals. The questions of fact cannot be interfered as the Deputy Commissioner of Labour under the Workmen's Compensation Act, 1923 is the final fact-finding authority. Consequently, the appellant cannot seek to upset the same in the appeals. I also do not find any merits in the present appeals. The orders of the

Deputy Commissioner of Labour are well reasoned and require no interference.

15. In view of the same, both the appeals stand dismissed. No cost. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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To

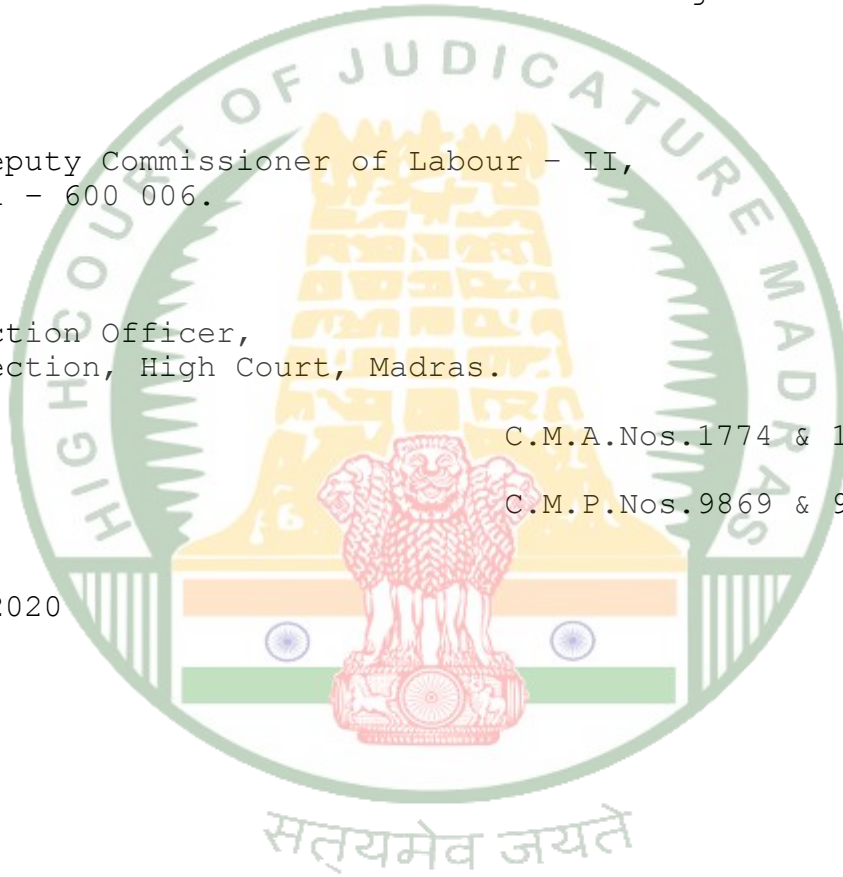
1. The Deputy Commissioner of Labour - II,
Chennai - 600 006.

Copy To

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

C.M.A.Nos.1774 & 1775 of 2005
and
C.M.P.Nos.9869 & 9870 of 2005

GJ(CO)
CS/09/01/2020



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