

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1987 of 2006

and

M.P.No.1 of 2006

United India Insurance Co. Ltd.,
Divisional Office-2,
Salem

...Appellant/II Opposite Party

Vs

1.P.Manivel

2.R.Balasubramaniam

...Respondents/Applicant/ I Opposite Party

Prayer: Civil Miscellaneous Appeal filed under Section 30 of Workmen's Compensation Act, 1923, against the order of the Learned Commissioner for Workmen's Compensation, Salem made in W.C.No.699 of 2004 dated 20.03.2006.

For Appellant : Mr.K.Suryanarayanan

For R1 : Mr.P.Tamilavel

J U D G M E N T

The appellant Insurance Company is aggrieved by the impugned order dated 20.03.2006 passed by the Commissioner for Workmen's Compensation, Salem in W.C.No.699 of 2004.

2.By the impugned order, the Commissioner for Workmen's Compensation, Salem has awarded a sum of Rs.1,88,158/- to the 1st respondent/claimant. The W.C.No.699 of 2004 was filed by the 1st respondent stating that he suffered employment injury while working in the Crane Lorry of the 2nd respondent.

3.It is the case of the 1st respondent, he was worked as a cleaner in the Crane Lorry bearing reg.No.TN 01 C 5261 of the 2nd respondent and on 16.12.2004, during the course of employment, he met with an accident and he suffered with the fracture of the ankle in the left leg.

4. Before the Commissioner for Workmen's Compensation, Salem, the appellant Insurance Company has disputed employer-employee relationship between the respondents and had also questioned the claim that the 1st respondent that he was earning a sum of Rs.7,000/- per month as wages at the age of 19 years.

5. The Commissioner for Workmen's Compensation, Salem has framed 5 issues and answered all the issues in favour of the 1st respondent by awarding a sum of Rs.1,88,158/- by adopting the minimum wages in absence of direct evidence to show the 1st respondent was earning of the aforesaid amount. The Commissioner for Workmen's Compensation, Salem has concluded the appellant Insurance Company was liable to pay the aforesaid compensation amount.

6. Aggrieved by the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal before this Court under Section 30 of the Workmen's Compensation Act, 1923.

7. On 18.07.2006, while admitting the present Civil Miscellaneous Appeal, this Court has framed the following substantial question of law:-

"In the face of the vehicle concerned, in which the cleaner was stated to be working, having been transferred prior to the accident date, can the Insurance Company still be made liable on the ground that the insurance policy also would stand automatically transferred?"

8. On perusing the order and after going through the records of the case, it is noticed that substantial question law that arises for consideration in the present Civil Miscellaneous Appeal is to be answered against the appellant as the vehicle involved in the accident was insured with the appellant.

9. Though the vehicle had been allegedly sold by the previous owner namely C.Mahendran to the 2nd respondent R.Balasubramaniam, latter failed to effect name transfer. Since the vehicle was insured and the accident was in the course of employment, the appellant is liable to pay compensation for employment injury. Therefore, there is no merits in the present Civil Miscellaneous Appeal.

10.In view of the same, the present Civil Miscellaneous Appeal is dismissed with consequential relief to the 1st respondent. The order of the Commissioner for Workmen's Compensation, Salem in W.C.No.699 of 2004 is upheld. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner for Workmen's Compensation,
Salem.

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

+1cc to Mr.K.Suryanarayanan, Advocate Sr.84669

+1cc to M/s.P.Tamilavel, Advocate Sr.84410

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and
M.P.No.1 of 2006

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