

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2042 of 2006

National Insurance Company Ltd,
No.751 Anna Salai,
Chennai - 600 002. : Appellant/2nd Respondent

vs

1.J.Lourdhu Raja : 1st Respondent/Claimant

2.J.Michal Xavier : 2nd Respondent/ 1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, to set aside the award dated 28.01.2006 and made in W.C.No.417/2004 on the file of the Commissioner for Workmen's Compensation - 2, Chennai (Deputy Commissioner of Labour -2).

For Appellant : Mr.S.Vadivel

For Respondents : No Appearance

J U D G M E N T

The Appellant Insurance Company is aggrieved by the impugned award dated 28.01.2006 passed by the Deputy Commissioner of Labour -2, Chennai in W.C.No.417 of 2004. By the impugned order, the Deputy Commissioner of Labour -2 has awarded a sum of Rs.1,03,334/- as compensation to the 1st respondent herein.

2. The Appellant Insurance Company questioned the employer and employee relationship between the respondents. It is stated by the respondent that there is no employer and employee relationship between the applicant and the first opposite party. Therefore the Deputy Commissioner of Labour -2, Chennai, in the said proceedings ought not to have awarded the compensation.

3. At the time of admission of the appeal, by order dated 01.08.2006, the following substantial questions of law:

"Whether the Deputy Commissioner of Labour - 2, Chennai is right in fixing the maximum salary of Rs.4,000/- as the monthly salary of the first respondent by shifting the onus of proving the salary on the appellant ignoring the law laid down in Explanation II of Section 4(1)(b) of the Workmen's Compensation Act, 1923?

4. Heard the learned counsel for the appellant. There is no representation on behalf of the respondents. I am of the view that the order passed by the Deputy Commissioner of Labour is well reasoned and requires no interference. Therefore, I do not find any merit in the present appeal.

5. Accordingly, the questions of law raised by the appellant was not answered in favour of the appellant. The present Civil Miscellaneous Petition is dismissed. No costs.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

drl

To

1. The Deputy Commissioner of Labour -2,
Chennai.

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

+1cc to Mr.S.Vadivel, Advocate, SR.No.91847.

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VBA (CO)
CSR(19/12/2019)