

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1848 of 2005
and
C.M.P.No.10210 of 2005

M/s.United India Insurance Company Ltd,
Divisional Office,
No.2, Dr.Sankaran Road, Namakkal. ...Appellant

vs

1.Athayee
2.P.Kaliappan ...Respondents

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.241 of 2004 dated 27.12.2004.

For Appellant : Mr.K.Suryanarayanan

For Respondents : Mr.K.Vijayakumar for R1
R2-Not ready in notice.

J U D G M E N T

The Appellant / Insurance Company is aggrieved by the impugned order dated 27.12.2004 passed by the Commissioner for Workmen's Compensation, Salem in W.C.No.214 of 2004 and has come forward with the present Civil Miscellaneous Appeal.

2. By the impugned order, the Commissioner for Workmen's Compensation, Salem has awarded a sum of Rs.2,28,103/- as compensation including funeral expenses to the 1st respondent / deceased wife.

3.According to the claimants, on 24.01.2004 the deceased / Ramasamy was waiting near the lorry bearing Reg.No.KA 21 A 7759, for loading of gas cylinders at Mangalore in Karnataka State and complained of Chest discomfort and was taken to a private hospital where he was declared dead. The Legal Representatives of the deceased i.e, the 1st respondent herein has filed a claim petition claiming a sum of Rs.7,00,000/- as compensation.

4. Based upon the facts, materials, evidence the Commissioner for Workmen's Compensation, Salem has awarded a sum of Rs.2,25,603/- towards funeral expenses of Rs.2,500/- thereby totalling the compensation at Rs.2,28,103 /- to the 1st respondent.

5. As against the said claim, the Commissioner for Workmen's Compensation, Salem has awarded a sum of Rs.2,28,103/- as compensation, against which, the Insurance Company/Appellant has filed the Appeal.

6. In the present appeal, the appellant has disputed the quantum of compensation that has been ordered. The appellant has raised four questions of law in the present appeal which reads as under:-

- i. Whether the learned Commissioner is correct in awarding compensation to the Applicants when the deceased Ramasamy did not receive any personal injury by accident, arising out of and in the course of employment with his employer, as contemplated under Section 3(1) of the Workmen's Compensation Act, 1923.
- ii. Whether the learned Commissioner is correct in his finding that heart attack is an employment injury, when heart attack is a 'disease' and not a 'personal injury by accident' as defined under Section 3(1) of the Workmen's Compensation Act, 1923.
- iii. Whether the learned Commissioner is correct in giving a finding that the said 'heart attack' is due to stress and strain of driving, in the absence of any direct evidence.
- iv. Whether the learned Commissioner can take the income of the deceased as Rs.3,843/- in the absence of any proof of such income.

7. Heard the learned counsel for the Appellant and the learned counsel for the respondent and perused the materials available on records.

8. Considering the facts that the deceased employee died due to heart attack when he was in the duty, it is liable to pay the compensation to the claimant who are legal heirs of the deceased. The Deputy Commissioner of Labour, Salem has also given opportunity to the appellant to pay the amount to the deceased family.

9. This Court is of the opinion that the compensation awarded by the Commissioner for Workmen's Compensation is well reasoned and is based on well settled principles of law and therefore, there are no grounds to interfere with the judgement passed by the Deputy Commissioner of Labour, Salem. Therefore, the grounds raised by the appellant is liable to be rejected and they are rejected accordingly. The compensation awarded by the Deputy Commissioner of Labour, Salem is just, fair and reasonable.

10. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant shall deposit the entire compensation amount of Rs.2,28,103 /- along with interest of 9 % as awarded by the Commissioner for Workmen's Compensation (Deputy Commissioner Of Labour), Salem, within a period of four weeks, from the date of receipt of a copy of this judgment, if it has not been already deposited and on such deposit the 1st respondent shall be entitled to withdraw the same. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

rri

To

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

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

+1 CC to Mr.R. Suryanarayanan, Advocate sr 92900.

C.M.A.No.1848 of 2005

and

C.M.P.No.10210 of 2005

VSNI (CO)

SP(27/12/2019)

WEB COPY