



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2484 of 2006
and CMP.No.9376 of 2006

M/s.Act India Limited,
No.553 Anna Salai,
Teynampet,
Chennai - 600 018.

...Appellant

vs

1.Shanmugathai
2.Periadurai Achi
3.New India Assurance Company Limited,
No.38, 1st Floor, NTP Co.,
II Line Beach Road,
Chennai - 1.
4.M/s.Ragavendra Enterprises,
Chennai-16.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, to set aside the order of the Commissioner for Workmen's Compensation-I, (Deputy Commissioner of Labour-I), Chennai -6 dated 6.4.2004 passed in WC.No.55 of 2002 and allow the appeal.

For Appellant : Mr.I.Haroon -AL- Rasheed for
Mr.T.S.Gopalan & co

For R1 & R2 : Mr.T.Easwaradhas

For R3 & R4 : No Appearance

J U D G M E N T

The Appellant Insurance Company is aggrieved by the order dated 06.04.2004 passed by the Deputy Commissioner of Labour - I, in WC.No.55 of 2002. By the impugned order, the Deputy Commissioner of Labour - 1, Chennai directed the appellant and the 4th respondent to pay a sum of Rs.2,83,902/-, jointly and severally to the Claimants who are the 1st and 2nd respondents.



2. It is the case of the deceased Rajadurai, that on 15.12.2000, while travelling in a lorry bearing Registration No.TN 09 H 9752, the said lorry was driven by the driver in a rash and negligent manner and the cleaner of the lorry, who was sitting in the left side of the driver of the lorry, died during the course of his employment. At the time of accident, the deceased was aged about 20 years and was earning a sum of Rs.3,000 per month as wages. The claimants were put to strict proof of it. The learned Deputy Commissioner took Rs.2534.84 per month as wages of the deceased under the Government Order No.(2D) 102, under Workmen Compensation Act. He also concluded that the appellant and the 4th respondent are jointly and severally liable to pay the compensation.

3. In the present appeal, the appellant has disputed the quantum of compensation that has been ordered. The appellant has raised two substantial questions of law which read as under:-

1. When the 3rd respondent failed to indemnify the appellant in terms of the Insurance Policy Ex.P.3 mainly because the deceased workman was an employee of the contractor.

2. In terms of Section 12 of the Workmen Compensation Act when once the principal employer who is liable to pay compensation in respect of the accident caused to the employee of the contractor, is not the 3rd respondent bound to indemnify the appellant in terms of Insurance policy under Ex.P.3?

4. Heard the learned counsel for the appellant and the 1st and the 2nd respondents. Though notices had been served on the Insurance Company and the 4th respondent there was no representation on behalf of the respondents.

5. The Appellant has deposited the entire amount before the Deputy Commissioner of Labour. I have perused the records including PW-3 which is the Insurance policy issued by the present 3rd respondent Insurance company. The deceased workman was an employee of the contractor. Under Section 12 of the Workmen Compensation Act, 1923 as stood the principal employer has to pay the compensation in respect of the accident caused to the employee of the contractor. The claimants are entitled to withdraw the amount if not already withdrawn. The appellant may recover the amount from the Insurance Company in accordance with law. Therefore, I do not find any merit in the present appeal.



6. Hence the present Civil Miscellaneous Appeal is liable to be dismissed and is accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

WEB COPY

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 M/s.T.S.Gopalan & co, Advocate SR.91882

+1cc to Mr.T.Easwaradhas, Advocate SR.92376

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PA(CO)
CB(21/01/2020)