

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2539 of 2006

and

M.P.No.1 of 2006

The Oriental Insurance Co. Ltd.,
No.146, West Car Street,
Kumar Complex, 1st Floor,
Tiruchengode - 637 211. ... Appellant/2nd respondent

vs

1.Mrs.Thangammal

2.Minor Vibish

(Rep. by his next friend
Guardian Mother Thangammal)

3.M/s.Jayakrishna Borewell,
Rep. by Managing Partner,
Thiru.P.Subramaniam,
Opp Canara bank,
185, 2011 Main 3rd Cross,
Chamrajpet, Bangalore. ... Respondents/
Claimants 1 & 2/1st respondent

Prayer: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, to set aside the order passed in W.C.No.586 of 2003 dated 20.03.2006 on the file of the learned Commissioner for Workmen Compensation (Deputy Commissioner of Labour), Salem.

For Appellant : Mr.J.Chandran

For R1 & R2 : Mr.Kulanthaivel

For R3 : Not ready in notice

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.586 of 2003.

2.By the impugned order, the Commissioner for Workmen's Compensation has awarded a sum of Rs.2,83,806/- for the compensation together with Rs.2,500/- for the funeral expenses to the 1st and 2nd respondents who are the legal representatives of the deceased Mani @ Muthusamy (hereinafter referred as Mani).

3.According to the 1st and 2nd respondents, the deceased Mani was employed by the 3rd respondent as a driver in a Rig Unit Lorry bearing Reg.No.KA 01 MA 4577 calling 'Jaya Krishna Borewell Service'. On 17.02.2003 at about 10.30 p.m, while going to fix the spot for digging borewell in the Suzuki Motor Cycle bearing Reg.No.TN 34A 2301, he met with an accident and sustained grievous injuries. Thereafter, the deceased Mani taken to the hospital for treatment where he died. Therefore, the legal representatives of the deceased Mani filed a claim petition for compensation of Rs.5,00,000/-

4.According to the appellant, there was no employer employee relationship between the 3rd respondent and the deceased Mani and the accident did not take during the course of the employment. Therefore, the compensation cannot be fastened on the appellant.

5.After considering the evidences and records of the case, the Commissioner for Workmen's Compensation has awarded aforesaid amount to the 1st and 2nd respondents/claimants.

6.Aggrieved by the same, the present Civil Miscellaneous Appeal has filed by the Insurance Company.

7.In the present Civil Miscellaneous Appeal, the appellant Insurance Company has raised the following substantial questions of law for consideration:-

- i. Whether the death resulted while driving a Motor Cycle not the Lorry KS 01 MA 4577 can be construed as accident arose out of and in course of employment as driver.
- ii. Whether the death occurred while discharging the job as Manager is entitled to get compensation as per the definition under Section 2(n) Workmen's Compensation Act.
- iii. Whether the reasoning of the Learned Commissioner in having awarded Rs.286/- against the pleadings, facts, evidence, unrealistic and against the well laid principles of law is sustainable.

8.Heard the learned counsels for the appellant and 1st and 2nd respondents.

9.I am of view, the Commissioner for Workmen's Compensation acting under the provision of Workmen's Compensation Act are not bound by strict rules of evidence. The finding of facts cannot be disturbed. Therefore, the present Civil Miscellaneous Appeal is liable to be dismissed.

10.The present Civil Miscellaneous Appeal is dismissed. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CJ Conf)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner for Workmen Compensation,
(Deputy Commissioner of Labour), Salem.

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

+1cc to Mr.J.Chandran, Advocate SR.95715

+1cc to Mr.Kulanthaivel, Advocate SR.95193

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SSI(CO)
CB(17/12/2019)

सत्यमेव जयते

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