

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2927 of 2007
and
C.M.P.No.3283 of 2007

United India Insurance Company Limited,
No.38, Annasalai,
Chennai-600002. ... Appellant/Respondent

vs

1.Vijaya

2.Chitra (Minor)
Rep. by her mother and
next friend Vijaya

3.Nagarajan

4.Saraswathy ... Respondents/Applicants & Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, against the order dated 18.02.1999 passed by the Commissioner for Workmen's Compensation-1 (Deputy Commissioner of Labour - 1), Chennai - 6, W.C.No.28 of 1998.

For Appellant : Mr.P.Sukumar

For Respondents : No appearance

J U D G M E N T

The appellant Insurance Company is aggrieved by the impugned order dated 18.02.1999 passed by the Deputy Commissioner of Labour - I in W.C.No.28 of 1998.

2.By the impugned order, the Deputy Commissioner of Labour has awarded a sum of Rs.2,19,950/- together with interest at 12% from the date of accident to till the date of deposit to the claimants who are dependents of deceased Murugan.

3. According to the 1st and 2nd respondents, the deceased Auto Driver Murugan employed by the 3rd respondent to drive his auto rickshaw bearing registration No. TN 01 6979 met with an accident on being hit by another vehicle bearing registration No. PY 01 V 5689 on 16.12.1995, Santhome High Road and sustained grievous injuries. Thereafter, the deceased was taken to the Government Royapettah Hospital where after the treatment he succumbed to the injuries and died on 18.12.1995. Therefore, the dependents of the deceased Murugan filed a claim petition for compensation of Rs.4,00,000/-.

4. After considering the evidences, Deputy Commissioner of Labour has awarded a sum of Rs.2,19,950/- together with interest at 12% from the date of accident to till the date of deposit to the claimants.

5. Aggrieved by the same, the present Civil Miscellaneous Appeal has been filed.

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

- i. Is the Deputy Commissioner of Labour right in holding that the deceased was a paid employee of the 3rd respondent and in making the appellant liable to pay the compensation?
- ii. Is the Deputy Commissioner of Labour right in holding that the vehicle involved in the accident was covered by Insurance on the date of accident?

7. Heard the learned counsel for the appellant. Though the notice has been ordered on the respondents, there is no representation for the respondents.

8. It is the contention of the learned counsel for the appellant that the owner of the auto rickshaw has taken any contradictory stand before the Deputy Commissioner of Labour in the written statement, argument and at the time of oral submission.

9. The finding of facts arrived by the Deputy Commissioner of Labour in the proceedings contemplated under the provisions of the Workmen's Compensation Act, 1923 is based on preponderance of probability. Such finding of facts cannot be disturbed in an appeal. The Deputy Commissioner of Labour is not governed by strict rules of evidence as Evidence Act as same is not applicable.

10. Therefore, I do not find any reasons to interfere with the order passed by the Deputy Commissioner of Labour under

the provisions of the Workmen's Compensation Act, 1923 while awarding aforesaid compensation to the 1st and 2nd respondents who are the dependents of the deceased Murugan. At the same time, in case the appellant has valid ground to recover the amount from the owner of the lorry i.d 3rd respondent, the liberty is given to the appellant to initiate appropriate proceedings in accordance with law.

11.The present Civil Miscellaneous Appeal is dismissed with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner for Workmen's Compensation-1
(Deputy Commissioner of Labour - 1),
Chennai - 600 006.

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

+lcc to Mr.P.Sukumar, Advocate SR.98251

C.M.A.No.2927 of 2007
and
C.M.P.No.3283 of 2007

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

सत्यमेव जयते

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