

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

C.M.A. No.3221 of 2007

M/s.The New India Assurance Company Limited,
Thiru.Vi.Ka.Road,
Villupuram.

Appellant/Respondent No.2

Vs

1.G.Veerappan
2.Arumugam

Respondents /Applicant, Respondent-1

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, against the order dated 21st May 2007 made in W.C.Case No.335 of 2006 on the file of Court of Commissioner for Workmen's Compensation-2 (Deputy Commissioner of Labour-2), Chennai-6.

For Appellant : Mr.S.Manohar

For Respondent : Mr.R.Sreedhar for R1

R2-Not ready in notice

O R D E R

This Civil Miscellaneous Appeal has been directed against the impugned award passed in W.C.No.335 of 2006 dated 21.05.2007 by the New India Assurance Company Limited, Villupuram, on the ground of the substantial question of law that when the disability or injury failed to cause any hindrance to the avocation of the workman, is the Commissioner empowered to award as per the Act.

2.This Court, while admitting the appeal on 06.11.2009, has framed the following substantial questions of law:

"1. Is not the claimant bound to prove his employment with the owner of the vehicle in order to maintain a claim under W.C. Act?

2. When the disability or injury does not cause any hindrance to the avocation of the workman, is the Commissioner empowered to award compensation as per the Act?

3. Is not the Commissioner under the Act required to find whether the injuries will result in any loss of earning power with relation to the avocation to the workman?

4. Is a Commissioner under the Act has jurisdiction to assess the loss of earning power?

5. Is not a Medical Practitioner alone competent to assess the loss of earning power as per Sec.4(1)(c)(ii) of the Act?

6. Is not the Commissioner under the Act required to assign reasons for his assessment?

7. Can a person be deemed to be fit for the purpose of holding an effective driving licence under M.V. Act and be deemed to be disabled for the purpose of W.C. Act.?"

3. Opposing the above substantial questions of law raised, the learned counsel appearing for the injured straight away taking note of the finding given by the learned Commissioner, submitted that the injured/claimant during the course of his employment suffered grievous injuries on 22.05.2006 and immediately, he was rushed to the Cuddalore Government Hospital, whereby he was also given treatment as inpatient from 22.05.2006 till 26.05.2006. Even after getting discharged from the Cuddalore Government Hospital, he was also taking treatment as out patient from private hospital.

4. In spite of the fact that the injured/claimant was admitted as in patient for the above said period, the Learned Commissioner has awarded only a sum of Rs.76,244/-, which this Court wants to enhance the amount awarded to a reasonable extent so that the word 'just compensation' can be given to the injured claimant. But when there is no counter claim made by the respondent, taking note of the fact that the amount awarded by the learned Commissioner, as an Authority under the Workmen Compensation Act, has awarded only a sum of Rs.76,244/-, this Court is unable to find any error in the impugned award.

Accordingly, the substantial questions of law are answered against the appellant. Therefore, the Civil Miscellaneous Appeal fails and the same is dismissed. Learned counsel for the first respondent/injured claimant states that till date, the first respondent has not withdrawn the said amount. Therefore, the first respondent is directed to withdraw the award amount along with accrued interest, if he is not done so till now. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vri
To

The Court of Commissioner
for Workmen's Compensation-2
(Deputy Commissioner of Labour-2),
Chennai-6.

+1cc to Mr.S.Manohar, Advocate Sr.65818

C.M.A. No.3221 of 2007

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srg 17/09/2019

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