

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3417 of 2005

The United India Insurance
Company Ltd.,
No.64, Armenian Street,
Catholic Centre,
Chennai-600 001.

... Appellant

Vs.

1. N.Kuppusamy
2. G.K.S.Kalai Construction,
B-1, Krish Apartments,
No.77, Thambiar Reddy Road,
West Mambalam, Chennai-600 033.
3. The United India Insurance Company Ltd.,
Third Party Claims Office,
38, Anna Salai, Chennai-600 002.
4. General Manager,
Southern Railway,
Chennai-600 003.
5. M/s.Ircon International Limited
Rep. By its Manager,
Kences Towers, Block 'C'
Third floor, No.1, Ramakrishna Street,
(North Usman Road),
T.Nagar, Chennai-600 017.

...
Respondents

Prayer :

Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, against the order of the Commissioner for Workmen's Compensation - II, Chennai dated 29.12.2004 and made in W.C.No.103 of 2002 received by the appellant on 29.04.2005 and prays to set aside the same.

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For Appellant : Mr.T.D.Vasu

For Respondents : R1 to R3 and R5
not ready in notice
R4-No appearance

J U D G M E N T

The appellant Insurance Company is aggrieved by the impugned order dated 39.12.2004 passed by the Commissioner for workmen's Compensation - II (Deputy Commissioner for Workmen's Compensation - II), Chennai in W.C.No.103 of 2002.

2.By the impugned order, the Deputy Commissioner for Workmen's Compensation - II has awarded a sum of Rs.1,76,803/- to the 1st respondent to be paid by the appellant and 2nd respondent. The 2nd respondent was directed to pay a sum of Rs.1,30,392/- while the appellant Insurance Company was directed to pay a sum of Rs.46,411/-.

3.Aggrieved by the same, the appellant Insurance Company has been filed the present Civil Miscellaneous Appeal.

4.Brief facts of the case that the 1st respondent was employed with the 2nd respondent as a supervisor. While inspecting a concrete mixture machine in the construction of Mass Rapid Transport System (MRTS) Bridge Work at Mylapore for the 4th respondent, the 1st respondent met with an accident and suffered injury.

5.It was stated that on 04.08.1997, while inspecting the concrete mixture machine, the 1st respondent slipped and his right arm was caught in the wheels of mixture, as a result of which he sustained injury on the right hand resulting in amputation of right hand up to shoulder and therefore, permanently disabled.

6.Under these circumstances, the 1st respondent filed a claim petition for compensation of Rs.3,10,000/-. Earlier, the 1st respondent was informed by the 2nd respondent that the compensation would be paid by the appellant and the 2nd respondent herein. Since the amount was not paid by either by the appellant or by the 2nd respondent herein, the 1st respondent had filed the claim petition. In the said proceedings, the 2nd respondent alone filed a counter denying the liability.

7.It is stated that the appellant and 2nd respondent have deposited the award amount with the Commissioner for Workmen Compensation - II (Deputy Commissioner for Workmen Compensation - II).

8.At the time of admission of this appeal, 50% of the

aforesaid amount together with interest accrued thereon till the date of filing of the appeal deposited with the Commissioner for Workmen Compensation-II (Deputy Commissioner for Workmen Compensation-II) was directed to be disbursed directly to the 1st respondent or by way Demand Draft/pay Order drawn in the name of 1st respondent.

9.While admitting the appeal, this court also framed following substantial question of law:-

"i) Whether the Commissioner was right in granting compensation when in as much as when the policy was taken for two persons and at the relevant point of time the employer has eight supervisors and in as much as the policy were taken showing under wages?

ii) whether the Commissioner was right in granting compensation when in as much as when the employer has violated the policy condition which clearly stipulates that the claim shall be made within 12 calendar months from the date of disclaimer ? "

10.In the present Civil Miscellaneous Appeal, the appellant has questioned the order passed by the Deputy Commissioner for Workmen Compensation - II in awarding the compensation to the 1st respondent.

11.I have perused the records and considered the arguments advanced on behalf of the appellant. The appellant has disputed the conclusion of facts arrived by the Deputy Commissioner for Workmen Compensation-II. There are no any substantial questions of law to be answered. I do not find any merits in the present Civil Miscellaneous Appeal.

12.Accordingly, the present Civil Miscellaneous Appeal is dismissed. No cost.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

tta / jen

To

1. The General Manager,
Southern Railway,
Chennai - 600 003.

Copy To

1. The Commissioner for Workmen's Compensation - II,
Chennai.
2. The Section Officer, V.R.Section,
High Court, Madras.

C.M.A.No.3417 of 2005

PM(CO)
CS/28/11/2019



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