

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3437 of 2005

The United India Insurance
Company Ltd.,
No.38, Anna Salai,
Chennai-600 002.

... Appellant

Vs.

1.Mathivadhani
2.Sumathi
3.Gomathi
4.Sadaiyan
5.Mangai
6.K.P.Thiruvengadam

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 30 of Workmen's Compensation Act,1923, against the award made in W.C.No.63 of 2004 dated 07.12.2004 (Served on 11.04.2005), on the file of Commissioner for Workmen's Compensation, Deputy Commissioner of Labour-II, Chennai.

For Appellant :Mr.N.Vijayaraghavan

For Respondents:R1 to R5 not ready in notice
R6-No appearance

J U D G M E N T

The Insurance Company is the appellant in the present Civil Miscellaneous Appeal. This Civil Miscellaneous Appeal has been filed against the order dated 07.12.2004 (Served on 11.04.2005) passed by the Commissioner for Workmen's Compensation, Deputy Commissioner of Labour-II, Chennai in W.C.No.63 of 2004.

2.By the impugned order of the Commissioner for Workmen's Compensation, Deputy Commissioner of Labour-II, Chennai has awarded a sum of Rs.3,38,880/- as compensation to the claimants/ 1st to 5th respondents who are the legal representatives of the deceased Ramanujam.

3. Aggrieved by the same, the appellant insurance company has been filed the present Civil Miscellaneous Appeal.

4. The deceased was working as a Loadman and the helper with the 6th respondent and is said to have been injured and later died. The 1st to 5th respondents/claimants further had filed claim petition before the Deputy Commissioner of Labour -II, Chennai to the above compensation wherein aforesaid compensation was awarded to the 1st to 5th respondents /claimants.

5. By the impugned order, the said Authority has come to the conclusion that the said deceased Ramanujam was working as a Loadman and helper with the 6th respondent. The appellant/Insurance Company has produced the contra evidence stated that the deceased Ramanujam was not employed with the 6th respondent.

6. In the present appeal, the appellant has raised the following substantial question of law:-

- i. Whether the Lower Court has grossly erred in fastening liability on the insurer in a case where the deceased was not a workman carried in the vehicle?
- ii. Whether the Lower Court has grossly erred in ignoring the evidence of Exs.R 1 to R 3 which disclosed that there was not such workman said to have been carried in the vehicle at the time of the accident?

7. It is stated that no liability can be fastened on the appellant as the deceased Ramanujam was not working as a loadman with the 6th respondent and that the claim was made up. However, there are no contrary evidences produced before the Deputy Commissioner of Labour -II to substantiate the above arguments.

8. In any event, while admitting the this Civil Miscellaneous Appeal on 10.11.2005 vide C.M.P.No.17426 of 2005, this Court 75% of the amount deposited to the credit of W.C.No.63 of 2004 together with interest accrued thereon till the date of filing of the appeal was allowed to disburse to the claimants by way of Demand Draft / Pay Order drawn. There are no substantial questions of law involved in the present Appeal.

9. Therefore, I do not find any merits to interfere the order of the Deputy Commissioner of Labour - II. Therefore, the present Civil Miscellaneous Appeal is liable to be dismissed.

10. Accordingly the present Civil Miscellaneous Appeal is therefore dismissed. No cost.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Deputy Commissioner of Labour-II,
Chennai.

2. The United India Insurance
Company Ltd.,
No.38, Anna Salai,
Chennai-600 002.

+1cc to Mr.N.Vijaya Raghavan, Advocate Sr.81641

C.M.A.No.3437 of 2005

pm[co]
srg 31/01/2020

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