

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.56 of 2007

National Insurance Company Ltd,
No.751 Anna Salai,
Chennai - 600 002.

...Appellant

vs

1.S.Rose
2.Minor S.Vijay
3.Minor S.Viji
4.Paulraj
5.Sankarammal
6.Maheswari
7.Minor Amala
8.A.Prakash

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, to set aside the award dated 09.09.2006 and made in W.C.No.356/2005 on the file of the Commissioner for Workmen's Compensation - 2 / Deputy Commissioner of Labour -2, Chennai.

For Appellant : Mr.S.Vadivel

For R1 to R7 : No Appearance

For R8 : Not ready in notice

J U D G M E N T

The Appellant Insurance Company is aggrieved by the impugned award dated 09.09.2006 passed by the Deputy Commissioner of Labour -2, Chennai in W.C.No.417 of 2004. By the impugned order, the Deputy Commissioner of Labour -2, Chennai, has awarded a sum of Rs.3,35,121/- as compensation to the Claimants who are the Respondents 1 to 7 in this appeal.

2. It is the case of the claimant that on 20.02.2005, the deceased met with an accident while driving the auto registered

in the name of the 8th respondent insured with the appellant. In the said proceedings, the appellant had questioned the liability on the ground that the deceased was not holding a driving license for driving the auto, there was no fitness certificate and there was an agreement of sale between the deceased and the 8th respondent for sale of the auto. The appellant has raised the question of liability under three substantial questions of law which read as under:-

(a) Whether the Deputy Commissioner of Labour 2, Chennai - 6 is right in holding that there was employee employer relationship between the deceased and the first opposite party when the first opposite party himself appeared before the court and stated that the deceased was the driver of the auto bearing registration No.TN.69.6032?

(b) Whether the Deputy Commissioner of Labour -2, Chennai -6, interpreted the Ex.R.7 in the right sense when admittedly Ex.R.7 driving license is meant for owner cum driver?

(c) Whether the Deputy Commissioner of Labour -2, Chennai -6, interpreted Ex.R.4 and R.5 properly before arriving at a conclusion that there was employee employer relationship between the deceased and the first opposite party?

(d) Whether the Deputy Commissioner of Labour-2, Chennai -6, is right in fixing the age of the deceased by relying on Ex.P.2, the post mortem certificate when admittedly an authenticated document i.e., Ex.R.6 was placed before him with the date of birth of the deceased".

3.Heard the learned counsel for the appellant. There was no representation on behalf of the respondents.

4. The questions raised by the appellant are not questions of law but questions of fact. Whether the deceased and the 8th respondent had an employee employer relationship being a question of fact same cannot be disturbed in this appeal. The order of the Deputy Commissioner of Labour is well reasoned and requires no interference. Therefore, I do not find any merit in the present appeal.

5.The present Civil Miscellaneous Appeal is therefore liable to be dismissed and is accordingly dismissed. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

drl

To

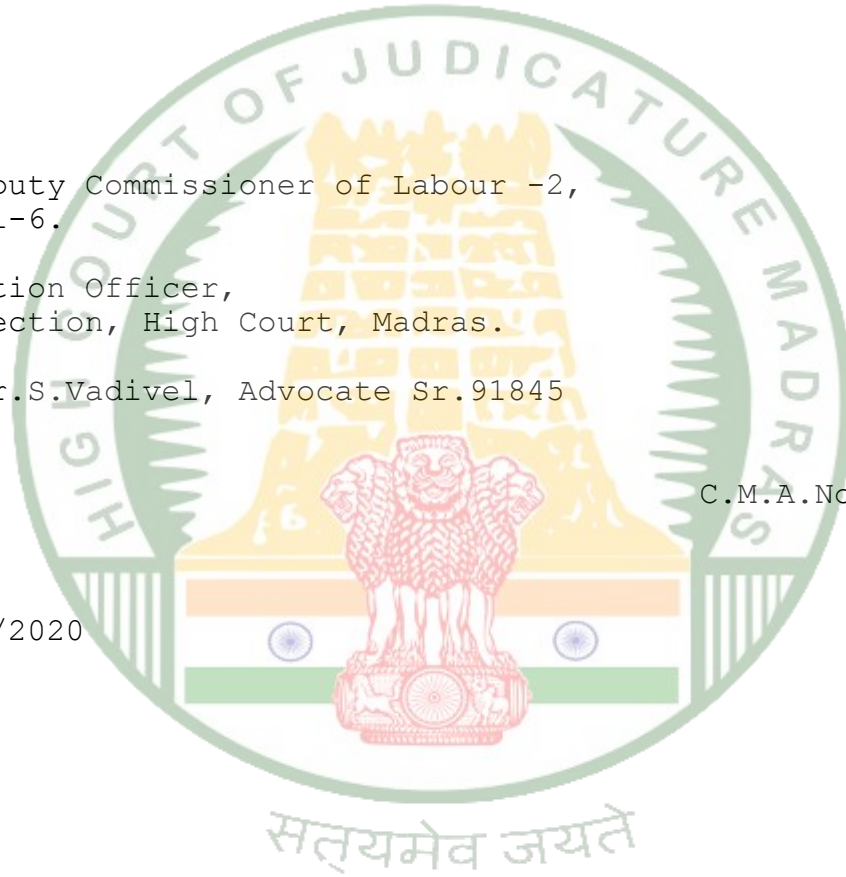
1.The Deputy Commissioner of Labour -2,
Chennai-6.

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

+1cc to Mr.S.Vadivel, Advocate Sr.91845

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