

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3559 of 2006

and

M.P.No.1 of 2006

M/s.United India Insurance
Company Limited,
38, Anna Salai, 3rd Floor,
Chennai 2.

... Appellant

vs

1.Baggiyam

2.Tmt.Chandra

2.B.Loganathan

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, to set aside the order dated 23.06.2006 made in W.C.No.19 of 2006 on the file of the Commissioner for Workmen's Compensation (DCL II), Chennai.

For Appellant : Mr.R.Ravichandran
For R3 : No appearance

J U D G M E N T

Even though the names of the respondents printed in the cause list, there is no representation for the respondents. Since no prejudice will be caused to the respondents by this order, the case is taken up for hearing to decide on merits. Heard the learned counsel for the appellant.

2.The appellant Insurance Company is aggrieved by the impugned order dated 23.06.2006 passed by the Deputy Commissioner of Labour - II, Chennai in W.C.No.19 of 2006.

3.By the impugned order, the Deputy Commissioner of Labour - II has awarded a sum of Rs.3,94,120/- as compensation together with Rs.2,500/- for funeral expenses to the 1st & 2nd respondents/claimants who are the legal representatives of the deceased Jayapal. The deceased Jayapal was employed by the 3rd respondent as a cleaner in his lorry bearing registration

No.TN 04 H 7155. The deceased Jayapal died on 14.09.2005 while working due to the heart attack.

4.The appellant Insurance company has contested the impugned order passed by the Deputy Commissioner of Labour - II on the ground that merely because the appellant insured the lorry ipso facto will not fasten liability on the appellant. The learned counsel for the appellant submits that the order of the Deputy Commissioner of Labour - II deserves to be interfered.

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

- i. Whether the learned Commissioner has failed to note that the claimants have not established any casual connection between the employment and the heart attack and the Learned Commissioner has failed to note that the deceased a cleaner and was not a load man or a driver and such there is no scope for any stress or strain and admittedly, there is no scope for any such things to happen, the Learned Commissioner has erred in holding a natural death as an employment injury?
- ii. Whether the learned Commissioner has failed to note that the claimants have not established any employment injury which means a personal injury to an employee caused by an accident or an occupational disease arising out of and in the course of his employment and failed to appreciating the ruling of the Apex Court reported in 1996 ACJ 1281 and also the ruling of this Hon'ble Court reported in 1999 ACJ 876?
- iii. Whether the learned Commissioner has failed to consider the Judgment of Apex Court rendered in Jyothi Ademma vs Plant Engineer, Nellore and another which is applicable to the facts of this case?
- iv. Whether the Learned Commissioner in any event has failed to note that in the absence of Ration Card and or Bank Pass Book to establish the age and the alleged Income the minimum wages payable under G.O.Labour & Employment ought to have been adopted following the Ruling of this Hon'ble Court reported in 2004 I TNMAC 66?

6.Though the above questions of law raised by the appellant, it has not let any evidence before the Deputy Commissioner of Labour - II to disallow the claim of the 1st and 2nd respondents /claimants who are the contesting

respondents. The death was on account of due to heart attack which has been held due to constrain the stress and strain involved in the work as a cleaner.

7.I find no reasons to interfere with the impugned order passed by the Deputy Commissioner of Labour - II as it is well reasoned and requires no interference.

8.In view of the same, the present Civil Miscellaneous Appeal is dismissed. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner for Workmen's Compensation (DCL II),
Chennai.

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

+1cc to Mr.R.Ravichandran , Advocate SR.No. 97828

C.M.A.No.3559 of 2006

and

M.P.No.1 of 2006

A.SK(27/01/2020)

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