

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2019

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3879 of 2005

The Oriental Insurance Company Ltd.,
Division officer No.IV, No.130,
Angappan Naickan St,
Chennai - 600 001. Appellant

Vs

- 1.S.Velmurugan
- 2.The Management,
M/s. Builders Engineering Constructions,
No.36, Ayya Mudali Street,
Chindadripet, Chennai 2.
- 3.M/s. Tata Products Ltd.,
Neyveli Lignite Corporation,
Thermal-1, Neyveli.
- 4.The Management,
Neyveli Lignite Corporation Ltd.,
Neyveli. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 of Workmen's Compensation Act, 1923, against the order passed by the Workmen Compensation Commissioner Court - I, Deputy Commissioner for Labour No.I, D.M.S. Campus, Chennai-600 006 in W.C.No.184 of 2001 dated 30.05.2005, in so far as against the award on this appellant.

For Appellant : Mr.M.Rajasekhar
For R1 & R3 : Not ready in notice
For R2 : No appearance
For R4 : Mr.N.Nithianandam

J U D G M E N T

The learned counsel for the appellant and 4th respondent Management of Neyveli Lignite Corporation Ltd., are present. There is no representation for the respondents No.1 to 3.

2.In this appeal, the appellant Insurance Company has challenged the order dated 30.05.2005 passed by the Deputy Commissioner of Labour-I, Commissioner of Workmen's Compensation -I, Chennai 600 006 in W.C.No.184 of 2001.

3.By the impugned order the Deputy Commissioner of Labour -I has allowed the claim petition filed by the 1st respondent and has awarded a sum of Rs.1,19,540/- to the 1st respondent on the ground that the 1st respondent had suffered employment injury and suffered fracture. The 1st respondent was assessed to 75% of disability.

4.Aggrieved by the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal. Six Substantial Questions of law have been raised by the appellant.

5.In the said proceedings, the 4th respondent Management of Neyveli Lignite Corporation Ltd. had filed a counter affidavit, denying its liability, stating that the 1st respondent was an employee of the 2nd respondent Sub-Contractor engaged by the 3rd respondent who was contracted by it..

6.This Court has admitted the appeal and framed following two Substantial Questions of law on 06.12.2005 which read as under:-

- i. Whether the Commissioner is required to determine the liability of the appellant to pay compensation on behalf of the second respondent?
- ii. Whether the finding of the Commissioner is sustainable as per Exhibit A-8 for the period from 05.08.2000 to 04.11.2000 by fixing the liability on the appellant for paying compensation to the first respondent herein on the date of accident, mentioned as 09.06.2000?

7.I have gone through the records, merits of the case and the substantial questions of law raised by the appellant.

8.The appellant has itself filed copies of the Insurance Policies vide Ex.R2/A2 and R8/A8, valid for the period from 05.08.1999 to 04.08.2000 and from 05.08.2000 to 04.11.2000 respectively. According to the appellant, the Ex.R2/A2 Insurance Policy for the period from 05.08.1999 to 04.08.2000 was confined only to the Electrical Engineers.

9.According to the appellant, only the Ex.R8/A8 Insurance Policy for the period from 05.08.2000 to 04.11.2000 the 2nd respondent had obtained a separate policy for 17 persons which included persons like the 1st respondent/ Claimant which is subsequent to the accident.

10.From the perusal of the policy, it is evident that the appellant has only filed true copy of the Ex.R2/A2 Insurance Policy for the period from 05.08.1999 to 04.08.2000 and therefore, the appellant like seeks deny the liability for the accident that took place on 09.06.2000.

11.From the reading of the both policies, it is evident that the both policies pertain to the Electrical Engineers. Though, there is a separate column, description of employees for premium details for the employees with wages less than Rs.2,000/-, it is blank.

12.The premium paid for the risk coverage in the Ex.R2/A2 Insurance Policy for the period from 05.08.1999 to 04.08.2000 is confined Rs.2,42,000/- and premium paid thereon is Rs.9,275/-, whereas subsequent policy for the period 05.08.2000 to 04.11.2000 vide Ex.R8/A8 covers a risk of Rs.1,03,500/- and the premium paid thereon is Rs.3777.75/-.

13.Though there are two policies for the successive periods, it is not clear as to why only in the second mentioned policy alone the workers were separately covered and why other categories of employees were not covered. Similarly, it is not clear as to why the workers were not covered by previous policy under which the liability is sought to be denied by the appellant.

14.Further, the format of the respective policy itself

provides separate space for the risk coverage and the premium payable for the workers whose wages were below and above Rs.2000/-. The appellant has itself kept the space meant for premium details for employees with wages more than Rs.2000/- blank and has instead used the space meant for giving the details of premium for the employees with wages less than Rs.2000/-. In both the policy the description of the employees has been given as "Electrical Engineers (not manufacturers)-elec.engin.-workon ship. It is vague. Only the second mentioned policy, which is for the period after the accident, there is a further qualification in hand writing "As per sheet attached".

15.Before the Deputy Commissioner of Labour-I, Commissioner of Workmen's Compensation -I, the principal employer had merely denied the liability and submitted that in the alternative it is the appellant herein who will be liable to pay the compensation to the 1st respondent under the policy.

16.The appellant in its counter has not denied the liability under the policy. Instead, the appellant has merely denied the said accident on 09.06.2000. The appellant has not denied that it is otherwise not liable to pay the compensation under the policy for the liability under the Workmen's Compensation Act, 1923.

17.Therefore, I do not find any reason to interfere with the reason given by the Deputy Commissioner of Labour-I, Commissioner of Workmen's Compensation -I, who concluded that the appellant has not filed entire copy of the Insurance Policies.

18.In the light of the above, the substantial questions of law admitted by this Court on 06.12.2005 are answered against the appellant.

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19.In view of the same, the present Civil Miscellaneous Appeal is dismissed and the order of the Commissioner of Workmen's Compensation-I (Deputy Commissioner of Labour -I) is upheld while giving liberty to the appellant to recover the amount from the 2nd respondent insured person. No Cost.

Sd/-
Asst.Registrar (CS VI)

/true copy/
Sub Asst. Registrar

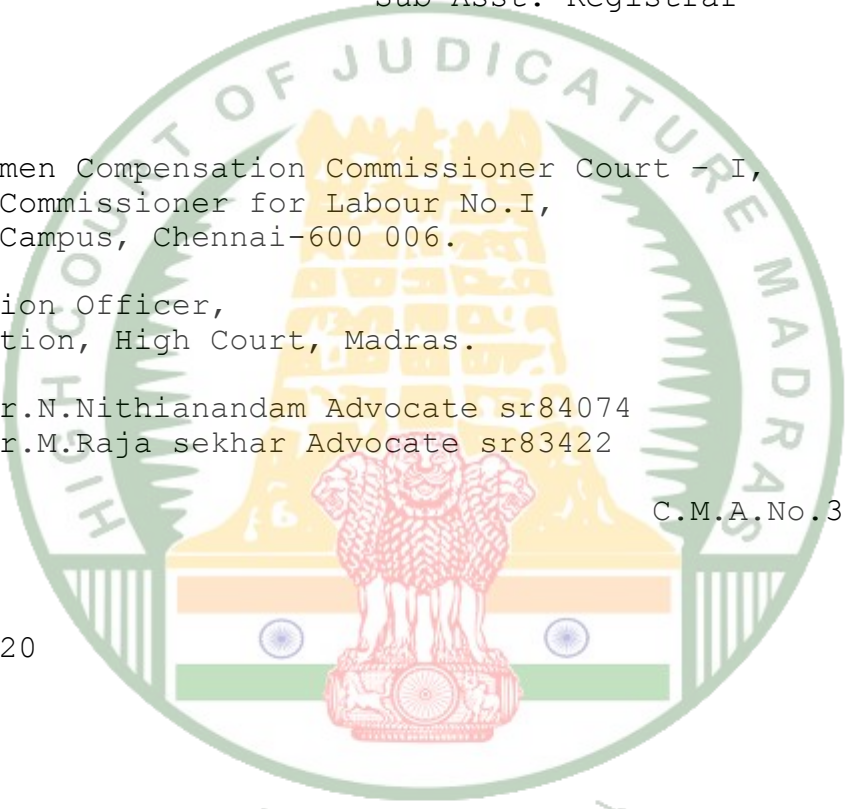
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To

- 1.The Workmen Compensation Commissioner Court -I,
Deputy Commissioner for Labour No.I,
D.M.S. Campus, Chennai-600 006.
- 2.The Section Officer,
V.R.Section, High Court, Madras.

+1 cc to Mr.N.Nithianandam Advocate sr84074
+1 cc to Mr.M.Raja sekhar Advocate sr83422

C.M.A.No.3879 of 2005

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