

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.Nos.863 & 1418 of 2006

P.Dhanapal

... Appellant in
C.M.A.No.863 of 2006

P.Saminathan

.... Appellant in
C.M.A.No.1418 of 2006

vs

1.P.Palanisamy

2.The Oriental Insurance Co.Ltd.,
No.59, Raja Street,
Gobichettipalayam,
Erode - 638 476.

... Respondents in
both C.M.As

Common Prayer: Civil Miscellaneous Appeals filed under Section 30 of the Workmen's Compensation Act, 1925, to call for the records relating to the orders dated 01.11.2004 (Received on 06.11.2004) made in W.C.No.326 of 2002 & W.C.No.415 of 2004 on the filed of the Commissioner for Workmen's Compensation, Salem and dismiss the order by allowing these appeals.

For Appellant : Mr.D.Balachandran in
both C.M.As.

For R1 : Dismissed dt.02.09.2015 in
both C.M.As.

For R2 : Mr.J.Chandran in
both C.M.As.

C O M M O N J U D G M E N T

By this common judgment, both the Civil Miscellaneous Appeals are being disposed.

2.The appellants are aggrieved by the impugned orders dated 01.11.004 passed by the Commissioner for Workmen's

Compensation, Salem in W.C.Nos.326 & 415 of 2002.

3.By the impugned orders, the Commissioner for Workmen's Compensation, Salem has dismissed the both claim petitions filed by the respective appellants on the ground that there was no evidence to substantiate that there was employer employee relationship between the respective appellants and the 1st respondent.

4.While dismissing the petitions, the Commissioner for Workmen's Compensation has concluded that there were no evidence and witness to prove that the respective appellants/claimants were employed by the 1st respondent as load men. The Commissioner for Workmen's Compensation has further concluded that there were no employer-employees relationship between the 1st respondent and the respective appellants based on the documents submitted by the 2nd respondent Insurance Company.

5.Aggrieved by the same, the respective appellants have filed the present respective Civil Miscellaneous Appeals.

6.The learned counsel for the appellants submits that the factum of accident has not been disputed and therefore the Commissioner for Workmen's Compensation erred in disallowing the claim petitions.

7.The appellant of the C.M.A.No.863 of 2006 has raised the following substantial questions of law:-

- i. Whether the findings of the learned Commissioner is correct in law in dismissing the petition while the first opposite party did not deny the employment of the appellant in view of the employment of the appellant with the first opposite party?
- ii. Whether the learned Commissioner is correct in dismissing the petition in view of the nature of evidence given by the 2nd opposite party, while the appellant is employed with the first opposite party?

8.At the time of admission of C.M.A.No.1418 of 2006 i.e 13.06.2006 the following substantial questions of law was framed by this Court:-

Whether on the facts pleaded and proved, has not the Commissioner for Workmen's Compensation committed an error in law and on facts in holding that there is no employer-employee relationship?

9.I have perused the records and considered the arguments

of the learned counsel for the appellants and the 2nd respondent. 1st respondent has dismissed vide order dated 02.09.2015.

10.It is the case of the respective appellants that they were employed as load men by the 1st respondent and that they were injured while traveling vehicle owned by the 1st respondent which was insured with the 2nd respondent. However, they have not produced any evidences to substantiate their claims. As the respective appellants have not raised any substantial question of law, the appeals filed by them is liable to be dismissed.

11.There is no merits in the present Civil Miscellaneous Appeals. Therefore, the present Civil Miscellaneous Appeals are dismissed. No cost.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner for Workmen's Compensation,
Salem.

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

+1cc to Mr.D.Balachandran, Advocate SR.91851

C.M.A.Nos.863 & 1418 of 2006

MR(CO)
CB(13/12/2019)

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