

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2019

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1061 of 2009

and

M.P.No.1 of 2009

The National Insurance Company Ltd,
Divisional Office,
110, Jawaharlal Nehru Street,
Pondicherry -1.Appellant

vs

1.Thilagavathy

2.K.T.Preethi (Minor)

3.A.B.Shanmugam

4.M/s.Metro Machinery Traders,
Neyveli Lignite Corporation
Fertilizer Plant,
33 Sri Ashok Nagar - 1,
Vadakuthu Village,
Neyveli.

5.The Chairman,
Neyveli Lignite Corporation Ltd.,
Neyveli.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 of Workmen's Compensation Act, 1923, against the award dated 30.01.2009 made in W.C.No.587 of 2006 on the file of the Commissioner for Workmen's Compensation - II Court/ Deputy Commissioner of Labour-II, Chennai-600 006.

For Appellant : Mr.S.Vadivel

For Respondents : Mr.R.Sreedhar for R1 & R2
R3 & R4 - Not ready in notice.
Mr.N.Nithianandam for R5

J U D G M E N T

The Appellant / Insurance Company is aggrieved by the impugned order dated 30.01.2009 passed by the Commissioner for Workmen's Compensation in W.C.No.587 of 2006 and has come forward with the present Civil Miscellaneous Appeal.

2. By the impugned order, the Commissioner for Workmen's Compensation has awarded a sum of Rs.3,81,620/- as compensation including funeral expenses to the 1st & 2nd respondents i.e., legal heirs of the deceased.

3. According to the claimants, on 13.07.2005, one Kumar (deceased) was engaged in dismantling of the plant and machinery in the 5th respondent premises and while on dismantling plant and machinery factory of the 5th respondent. The deceased Kumar was electrocuted and sustained grievous injuries all over the body. He was taken to the JIPMER Hospital and treated as an in-patient and thereafter died on 17.07.2005. Respondents No. 1 and 2 filed a claim petition for a compensation on the ground that the deceased Kumar was injured during in the course of employment under the 3rd and 4th respondents in the 5th respondent premises.

4. Based upon the facts, materials and evidence, before him the Commissioner for Workmen's Compensation-II, Chennai has awarded a sum of Rs.3,79,120/- towards compensation and funeral expenses of Rs.2,500/- totalling Rs.3,81,620 /- to the respondents 1 and 2. The Insurance Company/Appellant has filed the present appeal.

5. In the present appeal, the appellant has disputed the quantum of compensation that has been ordered. The appellant has raised following two questions of law which reads as under:-

i. Whether the findings of the learned Deputy Commissioner of Labour II, Chennai-6 that the policy taken by the second opposite party would cover an accident occurred beyond the geographical area given in the policy i.e, in the G2 Sub Station?

ii. Whether the learned Deputy Commissioner of Labour II, Chennai-6 is right in fixing the monthly salary of the deceased at Rs.4,000/- against the pleadings and the evidence of

P.W.1 to enable the claimants to avail the benefits through the policy?.

6. Heard the learned counsel for the Appellant and the learned counsel for the respondents and perused the materials available on record.

7. In the alternative, the learned counsel for the appellant submitted that the 4th respondent has already paid a sum of Rs.1,00,000/- to the 2nd respondent's account and therefore the aforesaid amount may deducted from the compensation payable. Here there are no material to support this plea. In any event, it is for the 4th respondent to claim the aforesaid amount from the 1st and 2nd respondents/claimants.

8. Considering the facts that the deceased employee died during the course of his employment under the respondents 3 and 4 herein and the 5th respondent as Principal employer and the appellant as insurer is liable to pay the compensation to the claimant/respondents 1 and 2 who are the dependants of the deceased.

9. This Court is of the opinion that the compensation awarded passed by the Deputy Commissioner of Labour-II, Chennai, the Commissioner for Workmen's Compensation is well reasoned and is based on well settled principles of law and therefore, there are no grounds to interfere with the award passed. Therefore, the grounds raised by the appellant is liable to be rejected and are rejected accordingly. The compensation awarded is just, fair and reasonable.

10. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. 1st & 2nd respondents shall be entitled to withdraw the amount deposited together with the interest accrued there on. 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,Chennai

2.The Section Officer,

V.R. Section, High Court, Madras.

+lcc to Mr.S.Vadivel , Advocate SR.No. 95317

+lcc to Mr.N.Nithianandam , Advocate SR.No. 95443

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