

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE C.SARAVANAN

C.M.A.No.2013 of 2009
and M.P.No.1 of 2009

The Oriental Insurance Company Limited,
Divisional office, 4th floor, RVR Building,
Head Quarters Road,
Coimbatore -18. ...Appellant/2nd Respondent

Vs

1. Azhagan, P.F.2717,
C/o.R.Edward,
General Secretary,
Akila India Thotath Thozhilalar Union,
1/12, Anna Complex,
Walparai -642 127.

2. Management,
Bombay Burma Trading Corporation Ltd.,
Mudis Post -642 117,
Walparai Taluk. ...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, against the order dated 6th day of November, 2008, made in W.C.Case No.99 of 2007, on the file of Court of Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Coimbatore.

For Appellant	: M/s.Elveera Ravindran
For R1	: Mr.P.Srinivasan
For R2	: Not ready in notice

J U D G M E N T

The Appellant/Insurance Company is aggrieved by the impugned order dated 06.11.2008 passed by the Deputy Commissioner of Labour, Coimbatore in W.C.No.99 of 2007.

2. By the impugned order, the Deputy Commissioner Workmen's Compensation has awarded a sum of Rs.85,449/- as compensation to the 1st respondent/claimant.

3. It was the case of the 1st respondent/claimant that he was employed by the 2nd respondent. On 12.04.2000, he fell down in deep slope when he was plucking tea leaves in the Thonimudi Estate and he was injured and taken for treatment for injury to spinal cord.

4. The 1st respondent filed a claim petition before the Deputy Commissioner of Labour. Since the 1st respondent/claimant was employed by the 2nd respondent who was insured with the Appellant/Insurance Company, the appellant was held liable to pay compensation.

5. The Appellant/Insurance Company has thus challenged in the present appeal, impugned order passed by the Deputy Commissioner of Labour, Coimbatore. The Appellant/Insurance Company has raised the following substantial questions of law :-

1. Is not the claimant bound to prove that the disability alleged was due to an injury arising out of an accident in the course of his employment?

2. When the policy of insurance issued by the appellant commenced from 01.04.2000 to 31.03.2001, is the appellant as insurer liable for any disease or injury occurred prior to the said period?.

3. Is the appellant as insurer liable for a disability arising out of spinal disc prolapse a disease?.

4. Is not the Commissioner wrong in finding that the claimant was suffered an injury on 12.04.2000 which aggravated the ailment of disc prolapse?

5. Is an insurer who issued a policy under the provisions of W.C.Act liable for a disability arising out of a disease of a workman?."

6. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the 1st respondent.

7. It is the contention of the learned counsel for the Appellant/Insurance Company that the Deputy Commissioner of Labour failed to see that as per Ex.P4 filed by the Claimant/1st respondent he was suffering for back pain right from 1999 and while the alleged accident is said to take place on 12.04.2000. Therefore, the appellant cannot be made liable for the injury.

8. The Commissioner for Workmen's Compensation acting under the provision of Workmen's Compensation Act is not bound by strict rules of evidence. The finding of facts arrived cannot be disturbed in the present appeal. As such there is no question of law much has substantial question of law arises for consideration in the present appeal. Therefore, the present Civil Miscellaneous Appeal is liable to be dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

msrm

To

1.The Commissioner of Workmen's Compensation,
(Deputy Commissioner of Labour) Coimbatore.

Copy to: The Record Clerk,
VR Section,
High Court, Madras.

+1cc to Mr.P.Srinivasan, Advocate, SR.No.97491.

C.M.A.No.2013 of 2009

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