

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 28.11.2019
CORAM
THE HONOURABLE MR.JUSTICE C.SARAVANAN
C.M.A.No.844 of 2008
and
M.P.No.1 of 2008

The Manager,
National Insurance Company Ltd.,
Divisional Office No-9, Leather Centre,
2nd Floor, 53, Raja Muthaiah Road,
Periamet, Chennai -3. ... Appellant/2nd opposite Party

vs

1.Mr.Palani
2.Mr.Balaji
3.Smt.Vatchala : 1 to 3 Respondents/Appellants
4.M.Ponnusamy : 4th Respondent/1st opposite Party

Prayer: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, against the order of the Deputy Commissioner of Labour-2, Chennai dated 10.09.2007 made in W.C.No.666 of 2006.

For Appellant : Mr.D.Bhaskaran
For R1 & R3 : Not ready in notice
For R4 : No appearance

J U D G M E N T

The Appellant/Insurance Company is aggrieved by the impugned order dated 10.09.2007 passed by the Deputy Commissioner of Labour -2, Chennai in W.C.No.666 of 2006.

2. By the impugned order, the Deputy Commissioner Workmen's Compensation has awarded a sum of Rs.2,36,069/- as compensation to the respondents 1 to 3/claimants who are the defendants of the deceased Leelaraman.

3. It was the case of the respondents 1 to 3/claimants that the said deceased Leelaraman was employed by the 4th respondent as a driver in the Lorry bearing Registration No.H.R.38 L 2277, on 04.03.2004 at about 09.00 a.m., and while going to Kanchikacherla, Krishan District, in Andhra Pradesh, he had suffered a Heart attack. Thereafter, the another person drive the lorry while the deceased was resting at the back side. Later he died.

4. The respondents 1 to 3 who were the defendants of the deceased Leelaraman filed a claim petition before the Deputy Commissioner of Labour. Since the deceased was employed by the 4th respondent as a driver and since the lorry of the 4th respondent was insured with the Appellant/Insurance Company, the appellant was liable to pay compensation.

5. According to the appellant, there was no employer-employee relationship between the 4th respondent and the deceased Leelaraman and the death did not take during the course of the employment. Therefore, liability cannot be fastened on the appellant.

6. Aggrieved by the same, the present Civil Miscellaneous Appeal has been filed by the Insurance Company.

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

- "i)Whether the Commissioner of Labour can award compensation when has not given any finding based on evidence with regard to the causal connection between the employment and the death?
- ii)Whether the Deputy Commissioner of Labour has jurisdiction when there is no evidence is brought on record to elaborate that the death by way of cardiac arrest has occurred because of Stress or Strain?
- Iii)Whether the Deputy Commissioner of Labour can invoke provisions of the Workmen's Compensation Act when the Claimants has not made out a case?
- iv)Whether the Deputy Commissioner of Labour can come to the conclusion that the deceased suffered heart disease without any medical opinion?
- v)Whether the W.C. Commissioner of Labour was correct in holding the Appellant is liable to pay the compensation awarded relying on the evidence of A W1 ?"

8. Though notice has been served on the respondents/claimants, they did not appear. The CMA is of the year 2008 and claim petition is of the year 2006 and the death of the deceased on 04.03.2004.

(A) I do not find any reasons to keep this Civil Miscellaneous Appeal pending.

9. After considering the evidences on records of the case, the Commissioner for Workmen's Compensation has awarded the aforesaid amount to the respondents/claimants 1 to 3.

(B) The 4th respondent owner of the lorry remained ex-parte before the Deputy Commissioner of Labour. In the proceedings before the Deputy Commissioner of Labour, the appellant has questioned the employer-employee relationship between the 4th respondent and the deceased Leelaraman. However, the appellant has not brought any evidence before the Deputy Commissioner of Labour to substantiate the same by either producing the owner of the lorry namely the 4th respondent or any other witness. Since, the Deputy Commissioner of Labour has given definite finding on facts that the death was due to stress and strain involved in the work, resulting the same death was on account of heart attack, it cannot be interfered in the appeal.

10. I am of the view, the order passed by the Deputy Commissioner of Labour cannot be interfered with. In the light of the above, substantial questions of law raised by the appellant are answered against the appellant.

11. In the result, the present Civil Miscellaneous Appeal is dismissed. Consequently, the respondents/claimants are entitled to withdraw the amount deposited by the Appellant/Insurance Company. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy//

Sub Assistant Registrar

msrm

To

1. The Deputy Commissioner of Labour-2,
Chennai.

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

+1CC to D.Baskaran, Advocate, SR.No.99319.

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CA(CO)
CSR:28/01/2020