

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2071 of 2009

M/s.United India Insurance Company Ltd,
7th Floor, 826, Annasalai,
Chennai-2.

...Appellant

vs

1.Ganesan
2.G.Vanila
3.P.Velu

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 of Workmen's Compensation Act, 1923, against the order dated 31.12.2008 made in W.C.No.70 of 2006 on the file of the Commissioner for Workmen's Compensation(DCL), Salem.

For Appellant : M/s.R.SreeVidhya

For Respondents : No appearance for R1 to R3

J U D G M E N T

The Appellant/Insurance Company is aggrieved by the impugned order dated 31.12.2008, passed by the Commissioner for Workmen's Compensation, Salem in W.C.No.70 of 2006 and has come forward with the present Civil Miscellaneous Appeal.

2. By the impugned order, the Commissioner for Workmen's Compensation, Salem has awarded a sum of Rs.4,01,708/- as compensation including funeral expenses to the respondents 1 and 2 i.e., parents of the deceased.

3. According to the claimants, on 20.06.2005 one Vairamuthu (deceased) was travelling as a loadman in a lorry bearing Regn.No.TN-27-J-2809 belonging to the 3rd respondent from Ettipatti to Muthanur Eri Main Road, near Muthanur, a lorry driver driving the said lorry in a rash and negligent manner, while turning the lorry, the deceased fell down due to which, he sustained grievous injuries. Thereafter, he was admitted in the Salam (Govt. & Private) hospital and after taking treatment for 65 days, later he came to his house and died on 08.11.2005. The Legal Representatives of the deceased i.e., the 1st and 2nd respondents herein has filed a claim petition claiming a sum of Rs.10,00,000/- as compensation.

4. Based upon the facts, materials and evidence, before him the Commissioner for Workmen's Compensation, Salem has awarded a sum of Rs.3,99,208/- towards compensation and funeral expenses of Rs.2,500/- totalling Rs.4,01,708/- 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 three questions of law which reads as under:-

- i. Whether the learned Commissioner has overlooked the fact that the conditions of the policy were violated?
- ii. Whether the learned Commissioner has erred in awarding huge compensation holding that the deceased as a regular employee? and
- iii. whether the learned Commissioner has erred in directing the appellant to pay Funeral expenses of Rs.2,500/- which is mandatory provision?

6. The learned counsel for the appellant submits that the accident happened on 20.06.2005, whereas the deceased has died on 08.11.2005. The contention of the petitioner is that the deceased was not an employee of the 3rd respondent and there was no employer employee relationship between the deceased and the 3rd respondent herein and therefore the appellant cannot be made liable to pay the compensation for the alleged occurrence. The Deputy Commissioner of Labour, Chennai allowed the claim petition filed by the 1st and 2nd respondents herein is not correct and therefore, the order passed is liable to be set aside.

7. Heard the learned counsel for the appellant. There is no representation on behalf of the respondents and perused the materials available on record.

8. Considering the facts that the deceased employee died due to the rash and negligent driving of the 3rd respondent's driver and since the 3rd respondent had insured his vehicle with the appellant/ Insurance company, it is liable to pay the compensation to the claimants who are legal heirs of the deceased.

9. The compensation awarded by the Deputy Commissioner of Labour, Salem, 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. The appellant had already deposit the entire compensation amount of Rs.4,01,708/- as awarded by the Commissioner for Workmen's Compensation (Deputy Commissioner Of Labour), Salem. Already 50% of the amount was allowed to be withdrawn. Balance also can be withdrawn by the claimants.

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 Deputy Commissioner,
salem.

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

+1cc to Mrs.R.Sreevidhya, Advocate, S.R.No. 95971

VG II(CO)
GN(04/02/2020)

C.M.A.No.2071 of 2009

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