

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1590 of 2011

and M.P.No.1 of 2011

The New India Assurance Co., Ltd.,
1663, Sree Bhavan Chambers,
Ramsingh Kindathalli, Belgaum,
Karnataka.

... Appellant

vs

1.Angammal
2.Revathy

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923 against the order of the Deputy Commissioner of Labour and commissioner for Workmen's Compensation, DCL, Salem dated 20.02.2006 made in W.C.No.560 of 2003.

For Appellant : M/s.S.Jayasankar

For Respondents : No Appearance

J U D G M E N T

The appellant Insurance Company is aggrieved by the impugned order dated 20.02.2006 passed by the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour) Salem in W.C.No.560 of 2003.

2. By the impugned order, the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour) Salem has awarded a sum of Rs.3,65,366/- as compensation to the claimant / 1st respondent who are the dependant of the deceased Mohan.

3. The contention of the appellant-Insurance Company is that though the appellant was employed by the second respondent, the death of Mohan, was not in the course of employment. After the completion of the work, the deceased went along with his co-workers and while crossing a river, slipped and fell down leading to his death and such an injury cannot be considered as an employment injury to grant compensation under the provision of the Workmen's Compensation Act, 1923.

4. The learned counsel for the appellant relied on the decision of the Division Bench of this Court in National Insurance Co.Ltd., Salem vs I.Ayyadurai and Another, 2004(2) TNMAC 47 (DB) and another decision of the Hon'ble Supreme Court in Employees' State Insurance Corporation vs. Francis De Costa, 1996 ACJ 1281, by considering the impugned order and the claim petition and counter filed by the respondent.

5. I have considered the decision of the Division Bench of this court and other decision of the Hon'ble Apex Court.

6. As per the above decision by the learned counsel for the appellant itself, it is clear that the Court held that the Insurance Company can pay and recover the amount from the insured. Therefore, the liberty is given to the appellant to recover the amount from the 2nd respondent in accordance with law.

7. In view of the above, the civil miscellaneous appeal is partly allowed with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

kkd

To

The Deputy Commissioner of Labour,
and commissioner for Workmen's Compensation,
DCL, Salem.

+lcc to Mr.S.Jaya Sankar, Advocate, SR.No.9874.

C.M.A.No.1590 of 2011
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SPD(CO)
CSR: 10.02.2020

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