

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2028 of 2011

M/s.ICICI Lombard General Insurance
Company Limited,
Chottabai Centre,
No.140,Nungambakkam High Road,
Chennai-600 034.

... Appellant/2nd Opposite Party

vs

1.G.Subramani

2.Muniyammal

(R2 set Ex-Parte in Lower Court)

...Respondents/Opposite Parties

Prayer: Civil Miscellaneous Appeal filed under Section 30 of Workmen's Compensation Act, 1923, against the order dated 18.02.2011 and received on 23.03.2011 made in W.C.No.314 of 2008 on the file of the Commissioner of Workmen Compensation (Deputy Commissioner of Labour-II) Teynampet, Chennai-600 006.

For Appellant : M/s.R.Sreevidhya

For Respondent : M/s.Varadhakamaraj for R1
R2- Ex-Parte

J U D G M E N T

Appellant/ Insurance Company is aggrieved by the award dated 18.02.2011 passed by the Deputy Commissioner of Labour-II, Chennai in W.C.No.314 of 2008 and has come forward with the present Civil Miscellaneous Appeal.

2. By the order dated 18.02.2011 the Deputy Commissioner of Labour-II, Commissioner for Workmen's Compensation Court - II, Chennai has awarded a sum of Rs.1,23,614/- to the 1st respondent herein under the provisions of the Workmen's Compensation Act, 1923.

3. It was the case of the 1st respondent / claimant that, he met with an accident on 15.12.2007 in quarry, when the lorry bearing registration No.NR 9659 belonging to the 2nd respondent took reverse and thereby he sustained grievous injuries. Based upon the facts, materials, evidence the Deputy Commissioner of Labour-II, Commissioner for Workmen's Compensation Court - II, Chennai has awarded a sum of Rs.1,23,614/- to the 1st respondent under the provisions of the Workmen's Compensation Act, 1923.

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

"A. Whether the learned Commissioner has failed to note that the Claimant had not established that he was a workman and sustained injuries during the course of employment under 1st opposite party in the light of Ex.P.2 and Ex.R.2 to R.6 and oral evidence of R.W.1 and R.W.2?

B. Whether the learned Commissioner has failed to note that the risk of loadman was not covered and no premium was paid?

C. Whether the learned Commissioner has erred in not exonerating the Appellant?"

5. The learned counsel for the appellant submits that the accident happened on 15.12.2007, whereas the complaint has been registered only on 12.02.2008 and therefore, there is no reason for the delay in filing the complaint. He further submits that the representation filed by the investigator was marked as Ex.P.4, in which the 2nd respondent has deposed that the 1st respondent was not her employee and there was no employer employee relationship between the respondents 1 and 2 herein and therefore the appellant cannot be made liable to pay the compensation in the alleged occurrence. But, the Deputy Commissioner of Labour, Chennai allowed the claim petition filed by the 1st respondent herein is not acceptable and therefore, the order passed is liable to be set aside.

6. Heard the learned counsel for the appellant and the respondent and perused the materials available on records.

7. I have perused the records. There are no substantial questions of law to be answered in the present appeal. The questions of fact cannot be interfered as the Deputy Commissioner of Labour under the Workmen's Compensation Act, 1923 is the final fact-finding authority. Consequently, the appellant has not produced any direct evidence. I do not find any merits in the present appeal. The order of the Deputy Commissioner of Labour is well reasoned and requires no interference.

8. Therefore, the present Civil Miscellaneous Appeal is liable to be dismissed and is accordingly dismissed. No costs.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

rri

To

1. The Deputy Commissioner of Labour - II,
Chennai - 600 006.

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

+1cc to Ms.R.Sree Vidhya, Advocate, SR.No.88315.

+1cc to Mr.K,.Varadha Kamaraj, Advocate, SR.No.87479.

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PP (CO)
CSR(19/12/2019)

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