

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.866 of 2011
and
M.P.Nos.1 & 2 of 2011

M/s.ICICI Lombard General
Insurance Company Ltd.,
No.140, Nungambakkam High Road,
Chennai-600 034. ...Appellant/2nd Respondent

vs

1.N.Loganathan
2.N.Jothi ...Respondents/Claimants/
1st Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 30 of Workmen's Compensation Act, 1923, against the order made in W.C.No.597 of 2008 dated 27.08.2010 on the file of the Commissioner of Workmen Compensation (Deputy Commissioner of Labour-II), Teynampet, Chennai-600 006.

For Appellant : M/s.R.Sree Vidhya

For Respondents : Mr.S.Haridass for R1
No appearance for R2

J U D G M E N T

The Appellant is aggrieved by the impugned order dated 27.08.2010 passed by the Commissioner of Workmen's Compensation (Deputy Commissioner of Labour-II), Teynampet, Chennai, in W.C.No.597 of 2008 has come forward with the present Civil Miscellaneous Appeal.

2. By the impugned order, the Commissioner for Workmen's Compensation has awarded a sum of Rs.2,07,511/- as compensation to the 1st respondent / claimant.

3. It was the case of the 1st respondent / claimant that, he met with an accident on 08.08.2008, while he was driving the van belonging to the 2nd respondent, bearing Registration No.TN-04-R-7416 proceeding at GST Road, near Kolampakkam parking place, Kanchipuram District, by overtaking the another vehicle, he hit the center median of the road and capsized, due to which the 1st respondent sustained grievous injuries. The injured/1st respondent herein, has filed a petition for compensation for a sum of Rs.2,00,000/-. As against the said claim, the Commissioner of Workmen Compensation, Chennai has awarded for a sum of Rs.2,07,511/- as total compensation. Against which, the appellant has filed the present Appeal.

4. Based upon the facts, materials, evidence the Commissioner for Workmen's Compensation, Teynampet, Chennai has awarded a sum of Rs.2,07,511/- to the 1st respondent.

5. As against the said claim, the Commissioner for Workmen's Compensation has awarded a sum of Rs.2,07,511/- as compensation, against which, the Appellant has filed the present Appeal.

6. In the present appeal, the appellant has disputed the quantum of compensation that has been ordered. The appeal has been admitted on the following substantial questions of law:

- i. Whether the Claimant and Ist Opposite Party have master and servant relationship?
- ii. Whether the claimant had sustained injuries during the course of employment?
- iii. Whether the alleged disability and functional disability were assessed in accordance with Schedule-I of W.C.Act?
- iv. Whether the Award of Workmen Compensation requires to be set aside or modified?

7. The learned counsel for the appellant submits that the 1st respondent is a brother of 2nd respondent and he was not his 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 for the alleged occurrence. But, the Deputy Commissioner of Labour, Chennai allowed the claim petition filed by the 1st respondent herein which is not acceptable and therefore, the order passed is liable to be set aside.

8. Heard the learned counsel for the Appellant and the learned counsel for the respondent and perused the materials available on records.

9. Considering the facts that there is no questions of law in respect of relationship between the 1st and 2nd respondents and the 1st respondent is the employee of the 2nd respondent and he has produced the disability certificate and also the 2nd respondent herein insured his vehicle with the appellant/ Insurance company, it is liable to pay the compensation to the claimant/ 1st respondent.

10. This Court is of the opinion that the compensation awarded by 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 judgement passed by the Commissioner of Workmen Compensation (Deputy Commissioner of Labour-II), Teynampet, Chennai. Therefore, the grounds raised by the appellant is liable to be rejected and they are rejected accordingly. The compensation awarded by the Commissioner of Workmen Compensation (Deputy Commissioner of Labour-II), Teynampet, Chennai, is just, fair and reasonable.

11. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant shall deposit the entire compensation amount of Rs.2,07,511/- along with interest of 12% as awarded by the Commissioner for Workmen's Compensation (Deputy Commissioner Of Labour), Teynampet, Chennai, within a period of four weeks, from the date of receipt of a copy of this judgment, if it has not been already deposited and on such deposit the 1st respondent shall be entitled to withdraw the same. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
सत्यमेव जयते
Assistant Registrar (CJ Conf.)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Workmen Compensation
(Deputy Commissioner of Labour-II),
Teynampet, Chennai-600 006.

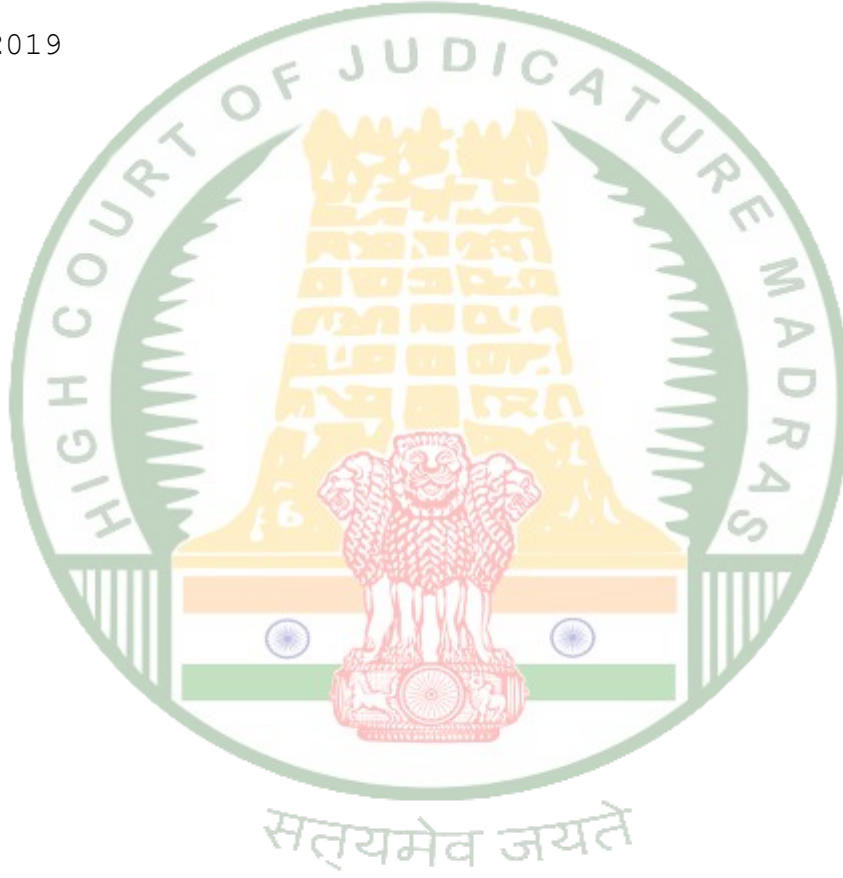
Copy To

The Section Officer,
V.R. Section, High Court,
Madras-104.

+1cc to Mr.K.Varadha Kamaraj, Advocate, S.R.No.92553
+1cc to M/s.R.Sree Vidhya, Advocate, S.R.No.93305

C.M.A.No.866 of 2011
and
M.P.Nos.1 & 2 of 2011

SSI (CO)
CS/17/12/2019



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