



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2019

CORAM:

THE HONOURABLE Mr. JUSTICE KRISHNAN RAMASAMY

C.M.A. (MD) No. 969 of 2013

and

M.P. (MD) No. 2 of 2013

The Divisional Manager,
The New India Assurance Co. Ltd.,
Divisional Office,
248 B, Kamarajar Salai,
Madurai 625 009.

... Appellant/Respondent 2

Vs.

1. Boominathan
2. T. Pitchaiammal

... 1st Respondent/Petitioner

... 2nd Respondent / Respondent No. 1

Prayer: The Appeal filed under Section 30 of Workmen Compensation Act, to set aside the award dated 16.08.2012 made in W.C.No.222 of 2007 by the Workmen Compensation Commissioner and Deputy Commissioner of Labour, Madurai.

For Appellant : Mr. K. Murugesan
For Respondents : Mr. A. Theerthar

JUDGMENT

This Civil Miscellaneous Appeal is filed by the appellant / Insurance Company challenging the award dated 16.08.2012 passed in W.C.No.222 of 2007 by the Workmen Compensation Commissioner and Deputy Commissioner of Labour, Madurai.

2. The only challenge in the present Civil Miscellaneous Appeal is liability. According to the appellant / Insurance Company, the deceased - workman was working as a loadman in some other lorry office and he was temporarily engaged by the 2nd respondent / owner for loading the goods in their lorry. The contention of the appellant / Insurance Company is that as the owner of the insured vehicle did not employ the injured - workman, the Deputy Commissioner of Labour wrongly awarded the compensation, fixing the liability on the appellant / Insurance Company, as if the deceased - workman was employed by the 2nd respondent.

3. The learned counsel for the first respondent / claimant would submit that the lorry owner viz., P. Pitchaiammal, during her examination has deposed that on 30.07.2007 she received information that at the time of loading goods in her lorry, a loadman had fallen down from the lorry. Further, he would contend that at the time of accident, since the injured - workman was engaged as load-man by the 2nd respondent, the accident had occurred during the course of employment and hence, the Tribunal has fixed the liability on the



2nd respondent, whose vehicle was insured with the appellant / Insurance Company and directed the appellant / Insurance Company to pay compensation.

4. Heard the learned counsel appearing for the appellant / Insurance Company and the learned counsel appearing for the respondents and perused the materials on record.

5. Admittedly, at the time of accident, the services of the injured - workman was utilized by the 2nd respondent for the purpose of loading goods in the 2nd respondent's lorry and hence, it would amount to the accident occurred only during the course of employment. Once the status of workman stands proved and the same is not disputed, even it be a temporary employment, the liability certainly accrues for payment of compensation, which has been taken note of by the court below. Therefore, this Court does not find any infirmity in the award dated 16.08.2012 passed by the Workmen Compensation Commissioner and Deputy Commissioner of Labour, Madurai in W.C.No.222 of 2007. Accordingly, this Civil Miscellaneous Appeal is dismissed.

(*) 6. Deleted

6. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar (CO)

**(*) Amended as per order of this
Hon'ble Court dated 20.11.2019**

/True Copy/

/ /2020

Sub Assistant Registrar

nbj

To

The Workmen Compensation Commissioner and
Deputy Commissioner of Labour,
Madurai.

Copy to: The Section Officer, V.R. Section (2 copies)
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.A. THEETHAR, Advocate (SR-86752[F] dated 16/09/2019)

**C.M.A. (MD) No. 969 of 2013
13.09.2019**

sma/16/03/2020/2p/5c