

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2020

CORAM :

The HON'BLE MR.JUSTICE M.DURAISWAMY

C.M.A.No.1140 of 2012
and M.P.No.1 of 2012

M/s.Bajaj Allianz General Ins. Co. Ltd.,
People's Park, Government Arts College Road,
Coimbatore - 18. ... Appellant/3rd Respondent

Vs.

1.S.Mariyammal

2.S.Ranjitha (Minor)

3.S.Karthick (Minor)

4.S.Lakshmi (Minor)

5.S.Lakshmi

(R2 to R4 minors rep by mother and NF 1st respondent

...1 to 5 Respondents/Applicants 1 to 5

6.K.A.Zahir Hussain

7.Balamurugan

8.Marudhavel

...6th Respondent/Opp. Parties 1,2,4

Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, against the order made in W.C.No.11 of 2010 dated 01.11.2011 on the file of the Commissioner for Workmen's Compensation, Deputy Commissioner of Labour, Coimbatore.

For Appellant : Mrs.C.Harini
for M/s.M.B.Gopalan

For Respondents: Mr.C.Nandha Kumar (R1 to R5)
Mr.C.B.Saravana Bhavan (R8)
R7 - no appearance
R6 - not ready in notice

O R D E R

Challenging the Award passed in W.C.No.11 of 2010 on the file of the Commissioner for Workmen's Compensation, Deputy Commissioner of Labour, Coimbatore, the 3rd opposite party in the Workmen's Compensation case has filed the above appeal.

2.The respondents 1 to 5 have filed the claim petition in W.C.No.11 of 2010 claiming a total compensation of Rs.5 lakhs for the death of one Selvaraj, who is the husband of the 1st respondent and father of the respondents 2 to 4. The said Selvaraj met with an accident on 20.04.2009 and succumbed to injuries.

3.According to the claimants, the deceased was working under the 6th respondent and that since he died during the course of employment, the 6th respondent, the owner of the vehicle viz., the 7th respondent and the appellant - Insurance Company are liable to pay the compensation. The Insurance Company filed a counter disputing the employment of the deceased with the 6th respondent. It is the contention of the appellant - Insurance Company that, by employing a private investigator, they found that the deceased was not employed with the 6th respondent and that he was employed with the 8th respondent. However, the 8th respondent contended that the deceased was not employed with him, therefore, he is not liable to pay any compensation. The accident took place in the place belonging to the 8th respondent. The 6th respondent did not file any counter and disputed the averments stated in the claim petition. The Labour Tribunal, taking into consideration the oral and documentary evidences let in by the parties, awarded a total compensation of Rs.3,96,620/- for the death of the said Selvaraj.

4.If the deceased was not employed with the 6th respondent, the normal conduct of the 6th respondent would have been to file a counter disputing the averments stated in the claim petition. If the deceased was not employed with the 6th respondent, he would have definitely denied the averments with regard to the employment of the deceased. In the case on hand, the 6th respondent remained silent by not filing any counter and remaining ex-parte. The proper person to speak about the employment of the deceased is only the 6th respondent. That apart, the 8th respondent also denied that the deceased was employed by him. The deceased was aged 35 years at the time of his death and was earning a sum of Rs.4,000/-. Considering the same, the Tribunal awarded a total compensation of Rs.3,96,620/-. The Tribunal has categorically found that the deceased was employed by the 6th respondent and therefore, the

appellant and the 7th respondent are liable to pay the compensation.

5.In these circumstances, I do not find any error or irregularity in the order passed by the Tribunal. The Civil Miscellaneous Appeal is devoid of merits and the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

va
To

1.The Commissioner for Workmen's Compensation,
Deputy Commissioner of Labour, Coimbatore.

+1 CC to Mr.M.B. Gopalan advocate sr 21765

+1 CC to Mr.G. Saravanabhavan, Advocate sr 21283.

+1 CC to Mr.C.Nandha Kumar, Advocate sr 21263.

C.M.A.No.1140 of 2012
and M.P.No.1 of 2012

SR(CO)
SP(17/07/2020)

सत्यमेव जयते

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