

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

CMA.NOs.1020 to 1024 of 2018 and
CMP.Nos.8282 to 8286/2018

CMA.NO.1020/2018

M/s.United India Insurance Company Limited,
Temple Square Complex,
No.82, North Mada Street,
Mylapore, Chennai-600 004.

... Appellant

-vs-

1. Manonmani
2. N.Sundar

... Respondents

Civil Miscellaneous Appeal filed under Section 30 of the Employees' Compensation Act, 1923, against the final award dated 17.10.2017 (received on 24.02.2018), passed by the Commissioner for Employees' Compensation (Deputy Commissioner of Labour-I), Chennai, in E.C.No.256 of 2007.

For Appellant : Mr.J.Michael Visuvasam
For 1st Respondent: Mr.F.Terry Chellaraj

CMA.NO.1021/2018

M/s.United India Insurance Company Limited,
Temple Square Complex,
No.82, North Mada Street,
Mylapore, Chennai-600 004.

...Appellant

-vs-

1. Kamatchi
2. N.Sundar

... Respondents

Civil Miscellaneous Appeal filed under Section 30 of the Employees' Compensation Act, 1923, against the final award dated 17.10.2017 (received on 24.02.2018), passed by the Commissioner for Employees' Compensation (Deputy Commissioner of Labour-I), Chennai, in E.C.No.257 of 2007.

For Appellant : Mr.J.Michael Visuvasam
For 1st Respondent: Mr.F.Terry Chellaraj

CMA.NO.1022/2018

M/s.United India Insurance Company Limited,
Temple Square Complex,
No.82, North Mada Street,
Mylapore, Chennai-600 004.

... Appellant

-vs-

1. Kamalatchi
2. N.Sundar

...Respondents

Civil Miscellaneous Appeal filed under Section 30 of the Employees' Compensation Act, 1923, against the final award dated 17.10.2017 (received on 24.02.2018), passed by the Commissioner for Employees' Compensation (Deputy Commissioner of Labour-I), Chennai, in E.C.No.259 of 2007.

For Appellant : Mr.J.Michael Visuvasam
For 1st Respondent: Mr.F.Terry Chellaraj

CMA.NO.1023/2018

M/s.United India Insurance Company Limited,
Temple Square Complex,
No.82, North Mada Street,
Mylapore, Chennai-600 004.

...Appellant

-vs-

1. Geetha
2. N.Sundar

...Respondents

Civil Miscellaneous Appeal filed under Section 30 of the Employees' Compensation Act, 1923, against the final award dated 17.10.2017 (received on 24.02.2018), passed by the Commissioner for Employees' Compensation (Deputy Commissioner of Labour-I), Chennai, in E.C.No.260 of 2007.

For Appellant : Mr.J.Michael Visuvasam
For 1st Respondent: Mr.F.Terry Chellaraj

CMA.NO.1024/2018

M/s.United India Insurance Company Limited,
Temple Square Complex,
No.82, North Mada Street,
Mylapore, Chennai-600 004.

... Appellant

-vs-

1. Regina
2. N.Sundar

... Respondents

Civil Miscellaneous Appeal filed under Section 30 of the Employees' Compensation Act, 1923, against the final award dated 17.10.2017 (received on 24.02.2018), passed by the Commissioner for Employees' Compensation (Deputy Commissioner of Labour-I), Chennai, in E.C.No.261 of 2007.

For Appellant : Mr.J.Michael Visuvasam
For 1st Respondent: Mr.F.Terry Chellaraj

C O M M O N J U D G M E N T

These appeals have been preferred challenging the final award dated 17.10.2017 (received on 24.02.2018), passed by the Commissioner for Employees' Compensation (Deputy Commissioner of Labour-I), Chennai, in E.C.Nos.256, 257, 259, 260 and 261 of 2007.

2. The case of the appellant in brief is as follows:

The 1st respondent/claimant in all the above appeals are loadmen and on 30.10.2005 at about 05.15 hours, they were engaged by the 2nd respondent herein in his Lorry bearing Registration No.TN-30 X 6273 for carrying sand and other goods for hire. At that time, the said vehicle met with an unfortunate accident in which the driver of the said lorry, namely, one Mr.K.Arumugam, including the 1st respondent herein in all the appeals/claimants who were travelling in the said lorry suffered injuries. Therefore, Seven Claim Petitions were filed before the Deputy Commissioner of Labour-I, Chennai-6 seeking compensation for the injuries sustained by them. In those Claim Petitions, two Claim Petitions were dismissed and final awards were passed in five Claim Petitions in E.C.Nos.256, 257, 259, 260 and 261 of 2007 on 17.10.2017 directing the appellant herein to pay a compensation of Rs.1,98,075/-, Rs.1,44,547/-, Rs.1,71,266/-, Rs.1,44,547/- and Rs.3,14,891/- respectively along with interest at 12% p.a. Aggrieved over the same, the present Civil Miscellaneous Appeals have been filed by the appellant Insurance Company.

3. Mr.J.Michael Visuvasam, learned Counsel for the appellants would submit that the loss of earning capacity of the claimant/1st respondent in all the above five appeals have been fixed at 50% on the basis of the fabricated discharge summary Ex.P.2 for the purpose of claiming unreasonable compensation. Further, the learned Deputy Commissioner of Labour-I, Chennai was not at all justified in entertaining the Claim Petition. Again the learned Counsel for the appellants pleaded that in the absence of any proof for the genuineness of Ex.P.2 Discharge Summary which is contrary to the Ex.R.1 Accident Register, the claimants having sustained only simple injuries have gone to the

extent of manipulating the Accident Register in grievous injuries and they have manipulated the Accident Register as though they have underwent treatment as inpatient. When the accident Register clearly shows that the claimant sustained only simple injuries, the question of undergoing treatment as inpatient would not arise. On this score, directed both the parties to settle the matter amicably based on which a Memo of Calculation dated 30.11.2020 has been filed.

4. A perusal of the Memo of Calculation would show that both parties have agreed to dispose of the above Civil Miscellaneous Appeals on the basis of the amount arrived at in the Memo of Calculation dated 30.11.2020 in respect of each appeal which is extracted here under:

MEMO OF CALCULATION

It is most humbly submitted that the below said appeals are preferred by the Insurance Company, challenging the award passed by the DCL-I, Chennai. Now both parties are given the memo for calculation for disposal of the cases:

Sl. No.	CMA.NO.	W.C.No.	Compensation award
1	1020/2018	256/2007	$60/100 \times 3585 \times 184.17 \times 10/100 = \text{Rs.} 39,615/-$ with 12% interest.
2	1021/2018	257/2007	$60/100 \times 3585 \times 224.00 \times 15/100 = \text{Rs.} 72,274/-$ with 12% interest.
3	1022/2018	259/2007	$60/100 \times 3585 \times 227.49 \times 10/100 = \text{Rs.} 48,933/-$ with 12% interest.
4	1023/2018	260/2007	$60/100 \times 3585 \times 224.00 \times 55/100 = \text{Rs.} 72,274/-$ with 12% interest.
5	1024/2018	261/2007	$60/100 \times 3585 \times 225.22 \times 10/100 = \text{Rs.} 48,445/-$ with 12% interest.

5. Recording the above Memo of Calculation filed by both the parties, the above Civil Miscellaneous Appeals are disposed of. Accordingly, the 1st respondent/claimant in all the appeals are entitled to get a sum of Rs.39615/-, Rs.72,274/-, Rs.48,933/-, Rs.72,274/- and Rs.48,445/- respectively along with interest at 12% p.a. from the 31st day of the accident till the date of deposit. No costs. Consequently, connected Miscellaneous Petitions are closed.

6. At this juncture, the learned Counsel for the appellant-Insurance Company submitted that the appellant Insurance Company has deposited the entire amount awarded by the

Deputy Commissioner of Labour-I, Chennai, therefore, they are entitled to withdraw the balance amount.

7. In view of the above, the learned Deputy Commissioner of Labour-I, Chennai is directed to pay the aforesaid amount to the claimants and the balance amount shall be refunded to the Appellant Insurance Company.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

The Commissioner for Employees'
Compensation (Deputy Commissioner of Labour-I),
Chennai.

+1cc to Mr.J.Michael Visuvasam, Advocate, SR.No.38617
+1cc to M/s.M.Malar, Advocate, SR.No.38509

CMA.Nos.1020 to 1024 of 2018

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