

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A. No.2040 of 2018 and
C.M.P. No.15881 of 2018

M/s.Reliance General Insurance Company Limited
Lakshmi Complex
Near ANS Jewellery
Omalur Main Road
Swarnapuri, Salem - 4

... Appellant

vs.

1.N.Murugesan
2.M.Meena

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, against the award dated 2.11.2017 made in E.C. No.932 of 2014 on the file of the Commissioner for Workmens Compensation, Deputy Commissioner of Labour, Salem.

For Appellant : Mr.N.Vijayaraghavan

For Respondents: No Appearance

J U D G M E N T

The appellant has come forward with the present appeal, challenging the award of the Commissioner for Workmen's Compensation/Deputy Commissioner of Labour, Salem, dated 02.11.2017 made in E.C. No.932 of 2014, foisting the entire liability on the insurance company.

2. According to the appellant, there was a breach of policy and the vehicle was used without permit, which has been established that has been reflected in the order of the Authority, but directing the insurance company to pay the amount of compensation, is erroneous and that the authority has not ordered even pay and recovery.

3. It is an admitted case that there is a violation of policy, which has been proved by the insurance company that the vehicle has been driven by the driver of the lorry and he cannot be aware of whether there is a valid permit or not, hence the owner of the lorry is liable to pay the entire

compensation. There is no provision for pay and recovery in the Workmen's Compensation Act. However, if there is any contractor is available, principal employer is liable to pay the amount and recover the amount from the contractor that is also absent in this case. In any event, asking the insurance company to pay the amount for breach of policy, would be putting a premium for illegal act that may be committed by the owners of the vehicle and this court has no other option, as an exceptional case to order payment of compensation by the insurance company and recover the amount from the owner together with interest at the rate of 12% per annum till it is actually recovered. In case of any demand by the insurance company, the owner of the vehicle is expected to pay the amount without any murmur. Award of the authority is modified to the extent indicated above.

4. Accordingly, the civil miscellaneous appeal is ordered. However, there shall be no order as to cost. Consequently, the connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Asr

To
The Commissioner for Workmen's Compensation/Deputy
Commissioner of Labour, Salem.

+1cc to Mr.N.Vijayaraghavan, Advocate SR.6899

C.M.A. No.2040 of 2018
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