



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 15.10.2020

CORAM

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A (MD) No.454 of 2008

and

M.P.Nos.1 of 2008 and 1 of 2009

New India Assurance Company Ltd.,
82, Doctor Thirumalai Plaza, 1st Floor,
New Dharapuram Road,
Palani,
Dindigul District.

: Appellant/2nd Respondent

vs.

1.V.Kumar

: 1st Respondent/Petitioner

2.C.Shanmugam

: 2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 30 of Workmen Compensation Act to set aside or modify the order of the Commissioner in W.C.No.237 of 2005 dated 10.12.2007 on the file of the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Dindigul.

For Appellant

: Mr.J.S.Murali

For Respondents

: Mr.H.Lakshmi Shankar (for R2)

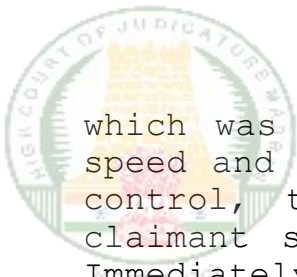
No appearance (for R1)

J U D G M E N T

Challenging the award passed by the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Dindigul, in W.C.No.237 of 2005 dated 10.12.2007, the Insurance Company has filed this appeal.

2.The facts in brief are that on 03.05.2005, the first respondent/claimant was engaged as load-man in a Van bearing Reg.No.TN-39-M-2552 belonging to the second respondent herein and the said Van was proceeding near Chekkalingampuram bus stop and at 12.15 p.m, when the driver was trying to overtake one mini auto,

<https://hcservices.ecourts.gov.in/hcservices/>



which was going in front of the van, drove the vehicle in a high speed and dashed against a two wheeler. Since the driver lost his control, the accident had happened. Due to the accident, the claimant sustained multiple grievous injuries all over his body. Immediately, the claimant was admitted in the City Hospital, Dindigul and he was inpatient for one month and thereafter, he took treatment as an outpatient. The first respondent/claimant sustained permanent disability in an accident that arose out of and in the course of employment under the second respondent herein. The second respondent herein has duly insured the said van with the appellant/Insurance Company. Hence, the claimant laid a petition, claiming compensation of Rs.5,00,000/-.

3.Resisting the claim, the appellant/Insurance Company filed their counter disputing the manner of accident, relationship of employer and employee and its liability to pay the compensation.

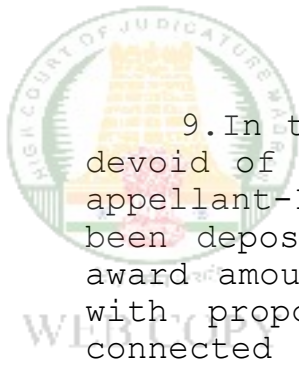
4.The claim petition was tried and to substantiate the case, on the side of the claimants P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P7 were marked. On the side of the appellant/Insurance Company, Ex.R1 was marked and R.W.1 was examined.

5.The Deputy Commissioner, after considering the oral and documentary evidence, held that the claimant is a workman employed by the second respondent as a Driver in his Van and the claimant has sustained injuries in the accident that arose out of and in the course of employment and awarded compensation of Rs.1,50,638/- along with interest at the rate of 12% per annum. Challenging the award, the appellant/Insurance Company filed this present appeal.

6.Heard the learned counsel appearing on either side and perused the materials available on record.

7.The appellant/Insurance Company has filed this appeal only challenging the quantum and they have not disputed the manner of accident and their liability. Hence, it is not necessary to elaborate on other aspects.

8.A Perusal of the impugned order would show that the Deputy Commissioner, after carefully considering the medical records and the evidence of the doctor, awarded Rs.1,50,638/- along with interest at the rate of 12% per annum to the claimant as compensation. Though the learned counsel for the appellant/Insurance company has contended that the award is on the higher side and it requires reduction, this Court is of the view that the Deputy Commissioner has awarded a just and reasonable compensation.



9. In that view, the Civil Miscellaneous Appeal is dismissed, as devoid of merits. It is represented by the learned counsel for the appellant-Insurance Company that the entire award amount has already been deposited. Hence, the claimant is permitted to withdraw the award amount, less the amount already withdrawn, if any, together with proportionate interest and costs. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

skn

To

The Commissioner for Workmen's Compensation
(Deputy Commissioner of Labour), Dindigul.

Copy to: The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2)

+1cc to Mr.J.S.nmurali, Advocate, Sr.No.20309.

+1cc to Mr.K.Lakshmi Shankar, Advocate, SR.No.20320.

**JUDGMENT MADE IN
C.M.A(MD) No.454 of 2008
and
M.P.Nos.1 of 2008 and 1 of 2009
15.10.2020**

SGS (CO)

CS: 18.01.2021 3P 6C