



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :19.02.2020

CORAM:

THE HONOURABLE Mrs. JUSTICE R.THARANI

C.M.A. (MD) .No.702 of 2013

and

MP (MD) No.1 of 2013

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The Branch Manager,
The Oriental Insurance Company Limited,
Tirunelveli. ... Appellant/2nd Respondent

Vs.

1.A.Sakthimurugan ... 1st Respondent/Petitioner
2.K.S.Ramasamy ... 2nd Respondent/1st Respondent

PRAYER: This appeal has been filed under Section 173 of M.V. Act, 1988, to against the order passed in W.C.No.9 of 2007 dated 30.09.2010 on the file of the Deputy Commissioner for Workmen's Compensation, Tirunelveli.

For Appellant : Mr.C.Jawaharavindran
For Respondents : No Appearance

JUDGMENT

This appeal has been filed against the order dated 30.09.2010 on the file of the Deputy Commissioner for Workmen's Compensation, Tirunelveli.

2.The appellant is the second respondent. The first respondent is the petitioner. The second respondent is the first respondent in W.C.No.9 of 2007.

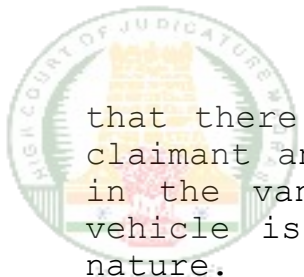
3.The first respondent filed a petition in W.C.No.9 of 2007 claiming a compensation of Rs.2,00,000/- for the injuries sustained by him in the accident. The Tribunal awarded a sum of Rs.79,834/- as compensation to the first respondent and fixed the liability upon the appellant. Against which, the appellant preferred this appeal.

4.The case of the petitioner in W.C.No.09 of 2007 is as follows:-

The claimant Sakthimurugan was working as a cleaner in the Tempo XL bearing Reg.No.TN-76-Z-6604. On 11.03.2006 at about 11.00 a.m, when the claimant was travelling in the Tempo as a cleaner from Tirunelveli to Thoothukudi, the driver of the vehicle drove the vehicle in a rash and negligence manner. When he tried to over take an ambassidar car, the van capsized and the claimant sustained injuries.

5.The case of the second respondent in W.C.No.9 of 2007 is

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that there is no relationship of employer and employee between the claimant and the first respondent. The petitioner is not a cleaner in the van. There is no policy coverage for the claimant. The vehicle is a passenger vehicle. The injuries were only simple in nature.

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6. After considering both sides, the Tribunal fixed a sum of Rs.79,834/- as compensation. Against which, the appellant preferred this appeal.

7. The case of the appellant is that there is no Insurance coverage for the cleaner. The appellant is liable to pay the compensation only for the passengers and the driver and not to anybody else. The Commissioner failed to consider the oral and documentary evidence submitted by the appellant. The disability certificate given by P.W.2 is unbelievable. There was no loss of earning power and the amount is excessive.

8. Ex.P.1/FIR was filed against the lorry driver. Ex.P.7 is the R.C.book. Ex.P.6 is the copy of the permit. Ex.P.4 is the driving license of the van driver. The evidence of P.W.1 and the document Ex.P.1/FIR reveals that the accident occurred due to the rash and negligent driving of the first respondent's van driver. The only contention of the appellant is that there was no policy coverage for the cleaner. The vehicle is a passenger vehicle. There could be no fault on the part of the cleaner of a vehicle. When the policy covered 12 passengers and one driver, the appellant cannot deny its liability from paying compensation for the cleaner. Hence, it is decided that there is nothing wrong in the fixation of liability by the Tribunal.

9. The appellant questioned the quantum stating that the claimant sustained only simple injuries. Scan report was marked as Ex.P.2. Disability certificate was marked as Ex.P.8. X-ray was marked as Ex.P.9. The evidence of P.W.2 reveals that the disability is correctly fixed.

10. In the above circumstances, there is nothing sufficient enough to interfere in the award passed by the Tribunal. The award passed by the Tribunal in W.C.No.9 of 2007 dated 30.09.2010 on the file of the Deputy Commissioner for Workmen's Compensation, Tirunelveli, is hereby conformed and the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11. The appellant/Insurance Company is directed to deposit the award amount along with interest at the rate of 7% p.a from the date of petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this order. The less amount if any was deposit earlier, on such deposit, the

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deducting amount, if any, already received by him. The claimant is not entitled to interest for the default period if there is any.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

dss

To

1.The Deputy Commissioner for Workmens Compensation,
Tirunelveli.

2.V.R.Section, (2 COPIES)
Madurai Bench of Madras High Court,
Madurai.

C.M.A. (MD) .No.702 of 2013
and
MP (MD) No.1 of 2013
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SMA/17/03/2020/3P/4C