

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.01.2021
CORAM
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
C.M.A.No.2911 of 2010

S.Mohanraj

..Appellant/claimant

Vs.

1.N.Jayasankar

2.The Divisional Manager,
New India Assurance Company Limited
110, Gandhi Road, Arani,
Thiruvannamalai District.

..Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 30 of the Workmen Compensation Act, against the order of the Workmen Compensation Commissioner Tribunal (Deputy Commissioner of Labour - I, Chennai - 600 006) dated 08.01.2010 passed in W.C.No.17 of 2007 which was received by the appellant on 17.08.2010.

For Appellant : Mr.K.Rajmohan

For Respondents : R1 - No appearance
R2 - Mr.M.Krishnamoorthy

J U D G M E N T

The Award dated 08.01.2010 passed in W.C.No.17 of 2007 is under challenge in the present Civil Miscellaneous Appeal.

2. The appellant is the claimant, filed an application seeking compensation under the Workmen Compensation Act. The appellant states that on 19.04.2006 at about 2.00 A.M., when he was working as Coolie in a vehicle bearing Registration No.TN-23-A-4979, insured with the 2nd respondent/Insurance company, met with an accident. The appellant sustained severe injuries and had taken treatment. The Insurance Company disputed the claim mainly on the ground that there is no coverage for Coolie as the owner of the vehicle had not paid any premium for such coverage. In the absence of any such coverage, the liability cannot be fastened on the Insurance company.

3. The Deputy Commissioner of Labour adjudicated the issues with reference to the documents and arrived a conclusion that there is no coverage for the Coolie and the owner of the vehicle

has not paid any premium for Coolie under the policy. Thus, the Insurance company is not liable and consequently, the owner of the vehicle is liable to pay compensation to the victims. The compensation was awarded against the owner of the vehicle. Challenging the said order, the claimant preferred the present appeal, stating that the Insurance company should be liable to pay compensation.

4. This Court is of the considered opinion that when the fact remains that there is no insurance coverage for the Coolie travelled in the vehicle, which met with an accident, the liability cannot be fastened on the Insurance company and the Deputy Commissioner of Labour had rightly decided the issues and the question of law raised in the appeal deserves no merit consideration. The Pay and Recovery principle cannot be granted in this case, in view of the fact that there is no insurance coverage at all. Thus, this Court has no hesitation in arriving a conclusion that the Award of the Deputy Commissioner of Labour is in consonance with the settled principles and there is no infirmity as such.

5. Accordingly, the Award dated 08.01.2010 passed in W.C.No.17 of 2007 stands confirmed and consequently, the Civil Miscellaneous Appeal in C.M.A.No.2911 of 2010 stands dismissed. No costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1. The Workmen Compensation Commissioner Tribunal,
(Deputy Commissioner of Labour - I,
Chennai - 600 006)

Copy to

The Section Officer

VR Section

High Court, Madras

+1 cc to Mr.N.Nithianandam Advocate sr3192

+1 cc to Mr.M.Krishnamurthy Advocate sr3104

C.M.A.No.2911 of 2010

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