

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25-01-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CMA No.1167 of 2016

And

CMP No.8786 of 2016

1.A.Syam

2.A.Mohana

3.Deebeha

Arumugam (died) ...1st Appellants/1st Respondent/
proposed Appellant/LRS Deceased

vs.

1.R.Palanisamy ...1st Respondent/Petitioner

2.M/s.Tamil Nadu Cartons,
12, Kombai Thottam,
Mission Street,
Tirupur-641 604.

3.United India Insurance Co. Ltd.,
C.G.Complex,
139, Kumaran Road,
Tirupur-641 601.

...2nd & 3rd Respondents /
2nd & 3rd Respondents

[cause title accepted as per the Court order dated
22.04.2016 made in CMP No.1751 of 2016
in CMA SR No.5575 of 2016 by]

PRAYER : Civil Miscellaneous Appeal is preferred under Section
30 of the Workmen Compensation Act, against the Award dated
30.10.2015 made in WC No.402 of 2006 on the file of the Deputy
Commissioner of Labour, Salem.

For Appellants : Mr.C.E.Pratap

For Respondent-1: Mr.C.Prabakaran

For Respondent-3: Ms.I.Malar

J U D G M E N T

The Award dated 30.10.2015 passed by the Deputy Commissioner of Labour, Salem in WC No.402 of 2006, is under challenge in the present Civil Miscellaneous Appeal.

2. The substantial question of law has not been properly framed in the present Civil Miscellaneous Appeal. However, the learned counsel appearing on behalf of the appellants contended that the employer-employee relationship has been erroneously decided by the Deputy Commissioner of Labour and based on the said substantial question of law, the present Civil Miscellaneous Appeal is filed.

3. However, the fact remains that the claimant Mr.Palanisamy was worked as a Loadman engaged by one Mr.Arumugam. On 17.01.2006, at about 07.00 P.M., as per the instructions of the said Mr.Arumugam, the claimant boarded on the Eicher Van bearing Registration No.TN-39-E-6788 for the purpose of loading cardboard boxes, which were to be unloaded at Tirupur. While the claimant was loading the goods on the said Eicher Van, suddenly he fell down from the van on the floor and sustained grievous injuries on the back side of his head and bleeding much through his nose and ears.

4. The accident occurred when the claimant Mr.Palanisamy was working under the said Mr.Arumugam-first opposite party in the application as the Loadman. He was taken to Arvind Hospital and was given first aid treatment and thereafter, taken treatment at Kumaran Hospital, Tiruppur. He was admitted as inpatient on 17.01.2006 and discharged on 25.01.2006.

5. The claimant filed application under the Workmen Compensation Act, seeking compensation.

6. The Deputy Commissioner of Labour adjudicated the issues with reference to the documents and the evidences produced by the respective parties.

7. The factum regarding the accident was established and the nature of injuries were also established through medical records. The Discharge Summary was also filed as a document and the Deputy Commissioner of Labour has made a finding that he sustained head injuries resulted bleeding from skull. The claimant is suffering from frequent headache on account of his head injuries. Therefore, the disability was fixed as 15%. The nature of injuries as well as the treatment taken by the claimant was established by filing medical records. The salary

of the claimant was fixed as Rs.4,000/-, which cannot be construed as excessive.

8. The accident occurred on 17.01.2006 and during the relevant point of time, the minimum wages notified by the Central Government under Section 4-A was Rs.4,000/-. Thus, there is no infirmity, as such, in the matter of fixation of salary.

9. As far as the employer-employee relationship is concerned, the claimant clearly deposed that the Brindavan Cartons belong to the first opposite party Mr.Arumugam. He was engaged by the Brindavan Cartons on a particular day for loading and unloading of Cardboard Boxes. When the fact regarding engagement of the claimant as Loadman, was established and this being the factum, this Court is of the considered opinion that there is no question of law needs to be adjudicated, as actually it was established before the Deputy Commissioner of Labour that the claimant was engaged by the Brindavan Cartons belong to the first opposite party Mr.Arumugam.

10. This being the factum established, there is no question of law raised. The factual question raised is also deserves no merit consideration as documents and evidences reveal that the accident was established during the course of employment and the quantum of compensation fixed is also just and in consonance with the established principles.

11. Accordingly, the Award dated 30.10.2015 passed in W.C. No.402 of 2006 by the Deputy Commissioner of Labour, Salem, stands confirmed and consequently, Civil Miscellaneous Appeal No.1167 of 2016 stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

12. The claimant is permitted to withdraw the entire Award amount with accrued interest by filing an appropriate application and payments are to be made through RTGS.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Svn

To
The Deputy Commissioner of Labour,
Salem.

Copy to:

The Section Officer,
VR Section, High Court , Madras.
+1cc to Mr. Pratap , Advocate, sr no.4275

C.M.A.No.1167 of 2016

MG (CO)
RMP (04/03/2021)



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