

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.3007 of 2012
and M.P.No.1 of 2015

Royal Sundaram Alliance General Insurance Company Limited,
45 and 46, Whites Road,
Chennai - 14.

... Appellant/2nd Respondent

Vs.

1.Sarada
2.Arumugam
3.Santhi
4.Mani
5.Kumar
6.J.V.Prasad

... Respondents/claimants

... Respondent/Ist Respondent

PRAYER : Civil Miscellaneous Appeal is filed under Section 30 of the Workmen's Compensation Act, 1923, against the order dated 09.07.2012, made in W.C.Case.No.20 of 2008, on the file of the Workmen's Compensation No.I, (Deputy Commisisoner of Labour-I), Chennai.

For Appellant : M/s.Elveera Ravindran

For Respondents : M/s.S.Lakshmipathy

J U D G M E N T

The appellant herein is the second respondent in W.C.Case.No.20 of 2008, filed by the legal heirs of the deceased viz., Pachaiyappan, claiming compensation for the fatal death of the said Pachaiyappan, while he was employed under the second respondent herein. After full trial, the Commissioner of Labour, awarded the compensation amount in favour of the petitioners. Aggrieved by the said Award, the second respondent/Insurance Company has preferred this appeal.

2. Point for Consideration:

Whether the Commissioner of Labour has erred in concluding that the claimants are entitled for the compensation award without considering that they are the married brothers and sisters of the deceased and the actual legal heirs.

3. The learned counsel for the appellant submits that the third respondent herein is the widow and she was the dependent of her brother viz. the deceased Pachaiyappan and also contended that the Commissioner of Labour restricted the right of the claimants and awarded compensation with a direction that the claimants after proving of their entitlement, the compensation amount will be disbursed on them. So, he prays to dismiss the appeal as no merits.

4. The facts reveals that the deceased Pachaiyappan is a Cleaner in the lorry. On 31.08.2007, while he was travelling in a lorry belonging to the 2nd respondent herein, he climbed into the lorry to check whether the loaded goods are placed in tact, during that time he fell down from the lorry by accident and died succumbing to grievous injuries.

5. Admittedly, the said accident had happened as per the FIR at Nellore District, Andhra Pradesh. So, while he was in the course of his employment, the said accident had occurred and that the lorry was belonged to the second respondent herein and the same is insured with this appellant. Admittedly, the brothers and sisters as a claimant filed application for compensation. The learned counsel for the claimants submitted that as per the claimants, the third respondent is a widow and other claimants were already married. Considering the fact, the Commissioner of Labour while awarding the compensation, reserved the disbursement of the amount after concluding the legal entitlement of the claimants. Such verification can be done by the Commissioner of Labour at the time of disbursing the award amount, therefore, the objection raised by the appellant is unsustainable one.

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6. Accordingly, this Civil Miscellaneous Appeal is dismissed and the order passed by the Commissioner of Labour is confirmed, after due verification of the claimants' entitlement, the award may be distributed in accordance with law as per to the legal entitlement of the claimant. With that direction, the Civil Miscellaneous Petition is ordered. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/-

Assistant Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1.The Deputy Commissioner of Labour-I,
The Commissioner for Workmen's Compensation-I,
Chennai-600 006

2.The Section Officer
VR Section,
High Court, Madras

+1 cc to Mr.Elveera ravindran Advocate sr12964

+1 cc to M/s.S.lakshmipathy Advocate sr12861

C.M.A.No.3007 of 2012

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