

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :23.02.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.551 of 2012
and M.P.No.1 of 2012

United India Insurance Company Limited,
Thiruchengode. .. Appellant/2nd Opposite Party

Vs.

1.G.Subramaniam ...1st Respondent/Applicants

2.K.M.Chandra2nd Respondent/
1st Opposite Party

PRAYER : Civil Miscellaneous Appeal is filed under Section 30 of the Workmen's Compensation Act 1923, against the award dated 11.05.2004 made in W.C.No.139 of 2002, on the file of the Deputy Commissioner of Labour, Workmen's Compensation Tribunal, Salem.

For Appellant : Mr.Arun Kumar

For Respondents : Mr.C.Kulanthaivel

J U D G M E N T

The appellant herein is the second respondent in W.C.No.139 of 2002, filed by the first respondent herein/injured, who claimed compensation for the injuries sustained by him, due to the accident happened on 25.12.2001, while he was employed as a driller under the second respondent herein rig unit lorry bearing registration No.TN-34-0001. The appellant herein is the Insurance Company under whom the vehicle belongs to the second respondent was insured. After full trial, the Commissioner of Labour directed the second respondent to pay the compensation. Aggrieved by that order, he preferred this Appeal.

2. As per the appellant contention that the Commissioner of Labour failed to note that the vehicle was not in use at the time of the accident, so the injured not come under the purview of worker as defined under Act. So he prays to allow the appeal.

3. Point for consideration:

"Whether the Commissioner of Labour rightly awarded the compensation to the person, who is not coming under the purview of workman as defined under Section 2(n) of the Act."

4. The facts reveal that the first respondent as a driller employed under the second respondent herein in the rig unit lorry and he was earning a monthly salary of Rs.3,000/-. While so, on 25.12.2001, Coimbatore District, near Sulur, when the said rig unit lorry was installed in order to dig a bore well, at the time, the winch motor from the said vehicle fell down on the left side hand. Thereby, the first respondent sustained grievous injury and he was admitted in the private hospital nearly about two weeks and took treatment and he suffered 30% partial disability. So, he prayed for compensation. The owner of the vehicle as well as the insurance company were contested the case.

5. There is no evidence, on the side of the first respondent and the Insurance Company adduced the evidence. As per the Insurance Company at the time of the alleged accident, the rig unit was installed without action, so, the injured not sustained the injury during course of his employment under the second respondent herein. Thereby, injured is not entitled to claim compensation as he alleged in the petition.

6. Before the Commissioner of Labour, the petition was examined as PW.1 and documents Ex.P1 to P4 were marked and on the respondent side evidence was marked as Ex.R1 and policy copy marked as RW.1 witness examined.

7. On considering the oral and documentary evidence, the Commissioner of Labour found that the accident was happened during the course of his employment and awarded compensation.

8. The learned counsel for the appellant submits that the injured was doing the drilling work in the bore well, which was no way connected with the rig unit vehicle as it is not part of the employment, hence, it will not come under the course of his employment.

9. But on seeing the entire evidence, it reveals that while the injured/first respondent was doing the drilling work, the bore well machine has fallen down and sustained injuries. Admittedly, even if the injured was doing the driller work in the bore well, it is part of the work connected with the digging bore well with the help of the rig unit lorry. Therefore, the objection raised by the Insurance Company is not sustainable one.

10. It is admitted fact that the injured was an employee and doing drilling work, which is connected with the digging bore well. Therefore, the Commissioner of Labour rightly concluded that the accident was happened during the course of his employment under the second respondent herein. Therefore, the objection raised by the Insurance Company is unsustainable one. Accordingly, the question of law is answered.

11. Accordingly, this appeal is dismissed. The Insurance Company is directed to deposit the entire amount along with accrued interest.

12. With regard to other findings, the order passed by the learned Deputy Commissioner of Labour, Workmen's Compensation Tribunal, Salem., is confirmed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Deputy Commissioner of Labour,
Workmen's Compensation Tribunal, Salem.

+lcc to Mr.C.Kulanthaivel, Advocate, S.R.No.10863

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C.M.A.No.551 of 2012

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