

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.503 of 2013

and

M.P.No.1 of 2013

National Insurance Co., Ltd.,
Branch Office, Thiruchengode. ..Appellant/II Respondent

Vs.

1.Nandakumar 1st Respondent/Claimant

2.M/s.Drills India Trube Wells rep.by
the owner M.C.Vadivel,
105, Sandai Main Road,
Thiruchengode - 637 211.
...2nd Respondents/I respondent

Prayer : Civil Miscellaneous Appeal filed under Section 30 of
the Workmen's Compensation Act, against the order of the Learned
Commissioner for Workmen's Compensation, Salem made in
W.C.No.287 of 2003 dated 25.05.2005.

For Appellant :Mr.K.Suryanarayanan

For Respondents:Batta due for R1 & R2(steps not taken)

J U D G M E N T

The Award dated 25.05.2005 passed in W.C.No.287 of 2003 is
under challenge in the present Civil Miscellaneous Appeal.

2. The question of law as stated in the appeal reads as
under:

(i) Whether the Learned Commissioner is correct
in awarding compensation to the Applicant when the
Applicant was engaged in an independent act i.e
digging a well, which is not connected with the
operation and maintenance of the rig lorry and the

said act of digging of bore well is not covered under the motor policy, covering the said lorry bearing Reg.No.KA 01 MC 7335.

(ii) Whether the Learned Commissioner is correct in giving a finding that the insurer of the Lorry bearing reg.No.KA 01 MC 7335 is liable to pay compensation for the injuries sustained by the applicant during drilling operations when the drilling rig mounted in a lorry is not a transport vehicle, within the meaning of the Motor Vehicles Act, 1988 and the insurer is not liable towards such workmen engaged in the drilling or rig operations.

(iii) Whether the Learned Commissioner can assess the disability at 50% in respect of loss of earning capacity when the Medical Practitioner had assessed the disability at 35%.

(iv) Whether the Learned Commissioner is empowered to assess the disability higher than the assessment made by the medical practitioner."

3. The question of law raised are relatable to the facts and cannot be construed as an acceptable substantial questions of law. The fact remains that the 1st respondent/victim filed an application under the Workmen Compensation Act, seeking compensation on the ground that he was employed as cleaner in the rig lorry bearing Registration No.KA-01/MC-7335. On 13.12.2002 at about 04.00 p.m, at Bijaipur, the 1st respondent/workmen sustained injuries due to the accident. He sustained crush injuries on his right hand fingers and cut off right hand index. He sustained other injuries also.

4. The application filed by the 1st respondent was adjudicated by the Deputy Commissioner of Labour with reference to the documents and evidences placed by the respective parties. The Deputy Commissioner of Labour arrived a finding that the factum regarding the accident was established and the 1st respondent/workman sustained injuries during the course of employment. Regarding the quantum of compensation, the Commissioner fixed the monthly income as Rs.2,768/- and loss of earning capacity was fixed as 50%. Therefore, the said award of compensation cannot be construed as exorbitant.

5. When the accident was established and the injuries sustained during the course of employment, this Court do not find any infirmity in respect of the award of compensation as well as the quantum fixed by the Commissioner.

6. This being the award, the appellant has not raised any acceptable ground for the purpose of interference and consequently, the award dated 25.05.2005 passed in W.C.No.287 of

2003 stands confirmed and consequently, the Civil Miscellaneous Appeal in C.M.A.No.503 of 2013 is dismissed. The 1st respondent/workman is permitted to withdraw the entire award amount with accrued interest by filing an appropriate application and the payments are to be made through RTGS. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
The Commissioner for Workmen's Compensation,
Salem.

Copy to :

The Section Officer,
VR Section
High Court, Madras.

C.M.A.No.503 of 2013

SSI (CO)
RMP (03/03/2021)



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