

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.151 of 2018 and
C.M.P.No.1899 of 2018

M/s.Reliance General Insurance Co.Ltd.,
No.2054, 2nd Avenue Road,
2nd Floor, Rai's Tower,
Anna Nagar, Chennai 600 040. ..Appellant

Vs.

1.Mr.P.Karthikeyan
2.Mr.B.Palani ...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 30 of the Employees Compensation Act, 1923, against the order made in E.C.No.157 of 2012, dated 04.04.2016, on the file of the Commissioner of Workmen Compensation, Deputy Commissioner of Labour-I, Chennai.

For Appellant : Mr.N.Vijayaraghavan

J U D G M E N T

The award dated 04.04.2016 passed in W.C.No.157 of 2012, is under challenge in the present civil miscellaneous appeal.

2. The substantial question of law raised in the present appeal is whether the appellant could be liable to pay compensation when the driver had no driving licence which is the breach of policy conditions.

3. The accident occurred on 19.08.2012 at about 3.30 a.m. When the claimant was driving a car bearing Registration No.TN 22 CY 8537 from Tambaram to Puzhal, the accident occurred and the claimant sustained grievous head injuries. An application was filed seeking compensation.

4. The Deputy Commissioner of Labour considered the documents and evidences and accordingly, passed an award granting a sum of Rs.3,43,108/- as compensation.

5. The learned counsel for the appellant mainly contended that the driver was not holding a badge at the time of the accident. Therefore, the Insurance Company cannot be held liable to pay compensation.

6. The Hon'ble Supreme Court of India, in the case of Mukunth Dewargan Vs. Oriental Insurance Company Limited, reported in 2017 ACJ 2011, held that the absence of badge is not the sole criteria to deny the benefit of compensation to the victim. In the present case, the driving licence was available. When the driver was possessing driving licence and the accident occurred, the Deputy Commissioner of Labour is right in granting compensation.

7. Therefore, this Court is of the considered opinion that there is no acceptable question of law raised in the present appeal for the purpose of interfering with the award passed by the Deputy Commissioner of Labour. In other aspects, the factum regarding the accident was established and the employee employer relationship was also proved. The accident occurred during the course of the employment. Therefore, there is no perversity or infirmity as such.

8. Accordingly, the award dated 04.04.2016 passed in W.C.No.157 of 2012 is confirmed and C.M.A.No.151 of 2018 stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

9. The claimant is permitted to withdraw the entire amount with accrued interest by filing appropriate application before the competent authority and payments are to be made through RTGS.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

The Commissioner of Workmen Compensation and
Deputy Commissioner of Labour-I, Chennai.

C.M.A.No.151 of 2018 and
C.M.P.No.1899 of 2018

MGR(CO)
CB(26/02/2021)