

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2021

CORAM

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

C.M.A.No.1854 of 2018

and

C.M.P.No.16056 of 2018

Reliance General Insurance Co.Ltd.,  
Sri Lakshmi Complex, 1st Floor,  
Bharathi Street, Omalur Main Road,  
Swarnapuri, Salem 636 004. ...Appellant/2<sup>nd</sup> Respondent

Vs.

1.P.Rajendran ... Respondent/ Petitioner

2.M.Sekar ...Respondents/1<sup>st</sup> Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 30 of the Employees Compensation Act, 1923, against the award and decree dated 06.03.2017 made in E.C.No.637 of 2015 on the file of the Commissioner, Workmen's Compensation Tribunal, DCL, Coonoor.

For Appellant : Mr.S.Arun Kumar

For Respondents : No appearance for R1  
R2-Notice sent-left

J U D G M E N T

The award dated 06.03.2017 made in E.C.No.637 of 2015, is under challenge in the present civil miscellaneous appeal.

2. The substantial question of law raised in the present appeal on hand is that whether the award passed in favour of a person who is not coming under the purview of workman as defined under Section 2(n) of the Act.

3. In the present case, the application filed by the first respondent claimant reveals that he was performing the duty as Load man in the Tractor belongs to the second respondent bearing Registration No.TN 28 AJ 1388. The said factum was established before the Deputy Commissioner of Labour. When the factum regarding the employment was established and the accident occurred during the course of employment, there is no reason to disbelieve the finding of the Deputy Commissioner of Labour for the purpose of awarding compensation under Workmen Compensation Act.

4. The other question raised by the appellant is that the quantum of compensation awarded by the Deputy Commissioner of Labour is exorbitant. Thus, it is not a question of law on facts.

5. This Court is of the opinion that from the disability certificate Ex.P10 dated 18.12.2014, the first respondent claimant sustained injuries as detailed hereunder:

".....He had fracture of nasal bone, fracture nasal septum, deep lacerated wound over forehead and contusion of chest wall. He was admitted in our hospital and the nasal bone fracture was managed by nasal drops and medications and also lacerated wound over forehead and contusion of chest wall managed conservatively, surgery was not done. Now I have seen him and clinically examined him which shows that there is nasal block in nasal septum. He had severe pain and stiffness in the nasal bone. He cannot concentrate at any work. He often gets severe headache, giddiness and allergic sinusitis. He has loss of sensitive of the smell. He cannot do any hard work. His activities of daily living is affected. After my clinical and radiological examination, the amount of permanent disability is 35% (thirty five percentage) only..... "

Dr.M.Sivakumar stated that the first respondent claimant was suffering from various other allied ailments, on account of the injury sustained during the accident.

6. Perusal of the evidence reveals that the first respondent sustained grievous injury. This being the factum, the grant of compensation of Rs.2,47,675/- awarded by the Deputy Commissioner of Labour cannot be considered as excessive. It is to be considered as just compensation.

7. This Court did not find any error or perversity with reference to the calculation of compensation made by the Deputy Commissioner of Labour. The compensation is not only reasonable but just and therefore, the award dated 06.03.2017 made in E.C.No.637 of 2015 stands confirmed and consequently, C.M.A.No.1854 of 2018 stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

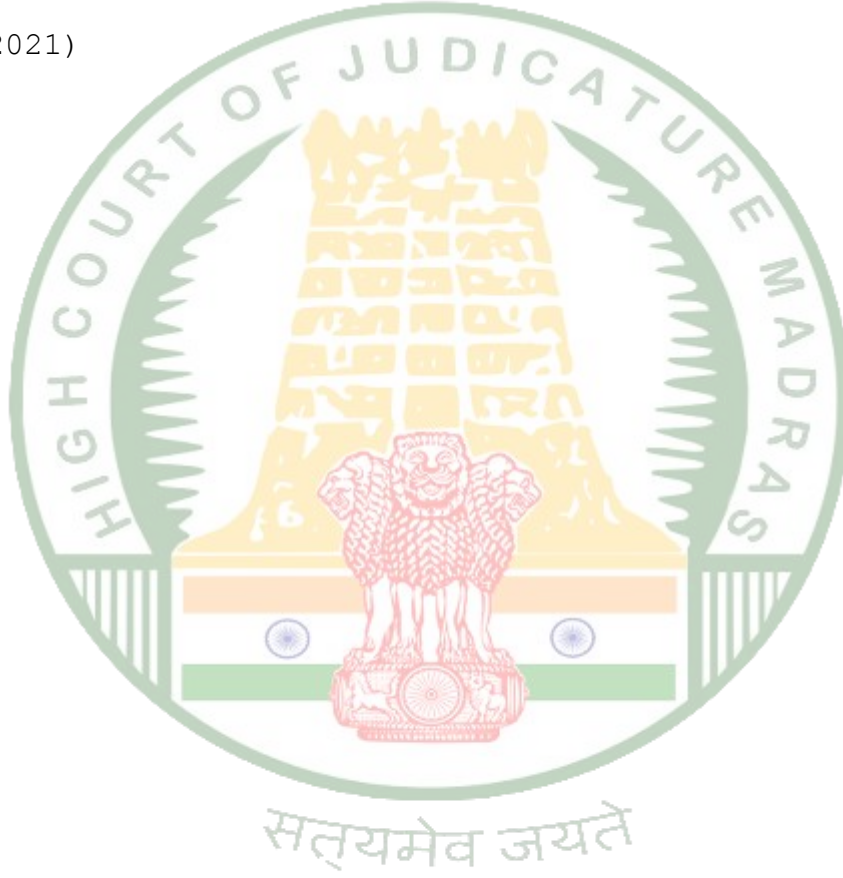
To

The Commissioner,  
Workmen's Compensation Tribunal, DCL,  
Coonoor.

+lcc to Mr.S.Arunkumar, Advocate, S.R.No. 3359

C.M.A.No.1854 of 2018 and  
C.M.P.No.16056 of 2018

CA (CO)  
GN (19/02/2021)



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