

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2021

CORAM

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

C.M.A.No.2372 of 2019 and
C.M.P.No.10815 of 2019

M/s.United India Insurance
Company Limited,
No.134, Greams Road,
Chennai 600 006.

... Appellant

Vs.

Thiru.J.Premkumar (deceased)

1.Thirumathi J.Shanthi

2.Thiru.Saravanan

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 30 of the Employees Compensation Act, 1923, against the final award dated 21.08.2018 (received on 23.02.2019), passed by the learned Commissioner for Employees Compensation (Joint Commissioner of Labour - I) at Chennai, in E.C.No.164 of 2011.

For Appellant : Mr.J.Michael Visuvasam

For Respondents : Mr.F.Terry Chellaraja for R1
R2-notice sent-insufficient address

J U D G M E N T

The award dated 21.08.2018 passed in E.C.No.164 of 2011, is under challenge in the present civil miscellaneous appeal.

2. The substantial question of law raised in the present civil miscellaneous appeal on hand is that in the absence of any finding regarding the employee employer relationship, the liability shall be saddled on the Insurance Company. Admittedly, there is no finding in the award regarding the employee employer relationship between the employee and the employer.

3. The Deputy Commissioner of Labour has to be adjudicated the issues based on the facts and circumstances and arrive a conclusion whether the employee employer relationship existed between the parties at the time of accident. This being the factual aspects to be decided, this

Court is not inclined to entertain this appeal. Further, the matter is remanded back for re-adjudication of this issue for the purpose of fixing the liability on the Insurance Company.

4. Accordingly, the award dated 21.08.2018 passed in E.C.No.164 of 2011, is set aside. The matter is remanded back to the Joint Commissioner of Labour I, Chennai - 6, for re-adjudication of the issue with reference to the employee employer relationship and the accident occurred during the course of the employment and accordingly, pass an award on merits and in accordance with law by affording an opportunity to all the parties concerned. The said exercise is directed to be done within a period of six months from the date of receipt of a copy of this order. Thus, C.M.A.No.2372 of 2019 stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

5. The parties to the suit are directed to cooperate for the earlier disposal of the suit. The Trial Court should decline unnecessary adjournments on flimsy grounds if sought for by the parties to the suit. The adjournments sought are to be granted only on genuine grounds and by recording reasons. Thus, the Trial Court is expected to proceed with the case without granting any unnecessary adjournments either at the instance of the parties or by the Courts.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

gsk

To

The Joint Commissioner of Labour - I,
Chennai.

+1cc to M/s.J.Michael Viswasam, Advocate SR.5264

+1cc to M/s.A.A.Venkatesan, Advocate SR.5715

C.M.A.No.2372 of 2019 and
C.M.P.No.10815 of 2019

GP(CO)
CB(03/03/2021)