

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2569 of 2019

and

C.M.P.No.12301 of 2019

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

...Appellant

Vs.

1.Tmt.A.Aisha Banu
2.Selvi.A.Thaslim Begum
3.Selvi.A.Riswana Nelofer
4.Selvi.A.Sabarin Banu
5.Selvi.A.Jeebaria Asin
6.Selvi.A.Nisifa Begum
Respondents V and VI being Minors
Represented by their next friend and
Natural guardian Tmt.A.Aisha Banu

7.Tmt.A.Aisha Beevi
8.Thiru.M.S.D.Pandian

...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 10 of the Employees Compensation Act 1923, against the Final Award dated 15th October 2018 (received on 04.03.2019), passed by the Learned Commissioner for Employees Compensation (Joint Commissioner of Labour-I), at Chennai, in E.C.No.103 of 2015.

For Appellant : Mr.J.Michael Visuvasam

For Respondents : Mr.S.Parthasarathy
[For R1 to R7]
No appearance
[For R8]

J U D G M E N T

The appellant is M/s.United India Insurance Company Limited.

2. The question of law raised is that whether the Joint Commissioner of Labour is right in granting liberty to recover the award amount from the employer.

3. The respondents filed an application seeking compensation on the ground that on 22.05.2015 at about 23.00 hours, the deceased Abdul Siddhique, the husband of the first applicant, driving the Mahindra Champion bearing Registration No.TN-02-V-0264 at Trichy to Madurai Road, Poomatha Nagar, Near C.R.C.Complex, in Viralimalai Police Station Limit in Pudukottai District, met with an accident and sustained fatal injuries and died on 23.05.2015 at about 10.00 hrs at Mahatma Gandhi Memorial Hospital, Trichirapalli.

4. The Joint Commissioner of Labour adjudicated the issues with reference to the documents and evidences. The employer-employee relationship was established and further, the death also occurred during the course of employment. When the requirements of the statute are fulfilled, the Joint Commissioner of Labour passed an award granting compensation of Rs.6,65,160/- along with a sum of Rs.5,000/- towards funeral expenses and interest at the rate of 12% per annum.

5. The learned counsel for the appellant mainly contended that in the present case, it was established that the vehicle, which met with an accident, did not possess the Fitness Certificate under the provisions of the Motor Vehicles Act. Fitness Certificate is the requirement under the statute. In such circumstances, the Joint Commissioner of Labour ought to have permitted the appellant / Insurance company to recover the award amount on the ground that the employer is liable to the extent that he has not maintained Fitness Certificate as far as the vehicle, which met with an accident is concerned. Not possessing the Fitness Certificate is violation of the policy conditions as the same is in violation of the provisions of the Motor Vehicles Act. Thus, the learned counsel for the appellant reiterated that the appellant must be permitted to recover the award amount from the employer/8th respondent.

6. This being the factum, the Award dated 15.10.2018 passed in E.C.No.103 of 2015 stands modified to the extent that the appellant/ Insurance company is directed to pay the award amount along with the accrued interest to the respondents/claimants and recover the said amount from the employer / 8th respondent by following the procedures as contemplated.

7. With this modification, the Civil Miscellaneous Appeal in C.M.A.No.2569 of 2019 stands allowed in part. The Joint Commissioner of Labour in the event of filing any application under Section 31 of the Workmen Compensation Act, may proceed against the 8th respondent/employer and recover the amount and pay the same to the appellant / Insurance company by following the procedures as contemplated. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Commissioner for Employees Compensation
(Joint Commissioner of Labour-I),
Chennai.

+1cc to M/s.S.Parthasarathy, Advocate Sr.10266

C.M.A.No.2569 of 2019

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