

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.2418 of 2014

The Divisional Manager,
M/s.Bajaj Allianz Insurance Company Limited,
Having its office at,
No.25 and 26, Prince Towers,
IV Floor, College Road,
Nungambakkam,
Chennai - 600 006.

... Appellant/2nd Opposite
party

Vs.

1.Selvi.Anitha
2.Y.Jhon

... Respondents/Applicant/
1st Opposite Party

PRAYER : Civil Miscellaneous Appeal is filed under Section 30 of the Workmen's Compensation Act, against the order dated 28.02.2013 made in W.C.No.38 of 2009, on the file of the Workmen Compensation (Deputy Commissioner of Labour - I), Chennai.

For Appellant : M/s.R.Sree Vidhya

For Respondents: M/s.M.Sivakumar for R1
exparte-R2

सत्यमेव जयते
J U D G M E N T

The appellant herein is the respondent in W.C.No.38 of 2009, filed by the first respondent herein for the fatal death of his brother viz., Anish. While deceased was driving the 407 Mini Lorry, bearing registration No.TN-09-AF-6384 and when the vehicle was slowly proceeding on Krishnagiri to Vaniyambadi main road near Kethanpatti Sugar Mill, another lorry bearing registration No.TN-25A-2644 proceeding in front side had suddenly stopped, owing to which the deceased lorry hit against the said lorry. As a result, the deceased sustained grievous injuries and died in the hospital. At the time, he was employed under the first respondent and the vehicle was insured

with the second respondent. As a sister of the deceased, the respondent herein filed the petition.

2. On perusal of the records, it is seen that PW.1 was examined and documents Exs.P1 to P9 were marked and on the side of the respondent, DW.1 and DW.2 were examined and documents Exs.RW.1 to RW.3 were marked.

3. Based upon all these evidence, the trial judge awarded compensation and directed the second respondent to pay the award amount. Aggrieved over the same, the appeal has been filed by the appellant herein.

4. The learned counsel for the appellant submits that this appellant is not the legal heir of the deceased since she was married even prior to the accident and hence, she has no locus standi to claim compensation.

5. The learned counsel for the respondent replied that before the Commissioner of Labour, she produced the legal heir certificates and proved her entitlement and based upon her evidence, the Commissioner of Labour rightly awarded compensation, so, she prays to dismiss the appeal as no merits.

6. Point for Consideration:

whether the award passed by Commissioner of Labour is without appreciating the objection raised by the Insurance Company and erroneously concluded that the first respondent herein is the legal heir of the deceased ?

7. On perusal of the documents, it is seen that the respondent herein preferred a claim that she is the sister of the deceased. To prove the same, she produced the legal heir certificate as Ex.P3 and the translated certificate is Ex.P4. The investigating report of the Insurance Company also been marked as RW.3. All these documents reveal that the first respondent is the sister of the deceased. Except the first respondent, nobody claims compensation. Furthermore, the appellant has also serious objection with regard to the employment of the deceased. First respondent claims that the deceased was earning Rs.7,000/- p.m.. As there is no income proof Rs.4,000/- was fixed by the Commissioner as the monthly income of the deceased. The investigating report of the Insurance Company as Ex.RW.3 does not disclose that any other legal heir is available for the said deceased.

8. However, the learned counsel for the appellant strongly objected that the first respondent is not entitled to

receive the award amount as discussed above, the facts reveals that she is the sister of the deceased and the parents of the deceased are no more.

9. The deceased was unmarried and was under the care and custody of the first respondent. So as the legal heir of the deceased, she is entitled for the award. If there is any dispute between herself and other legal heirs, that has to be worked out between themselves and the same cannot be questioned by the Insurance Company. Therefore, the objection raised by the appellant is not sustainable.

10. Accordingly, this appeal is dismissed, the appellant is directed to deposit the award amount with interest at the rate of 12 % from the date of the accident till the date of realization.

11. With regard to other findings, the order passed by the learned Deputy Commissioner of Labour-I, Chennai, is confirmed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To.

1.The Commissioner of Workmen Compensation,
Deputy Commissioner of Laour -I,
Chennai.

2.The Section Officer,
VR Section , High Court Madras.

+1 cc to M/s.C.Prabhakaran, Advocate Sr.No. 7835

+1 cc to M/s.R.Sree Vidhya, Advocate Sr.No. 8320

AKI (CO)
RMP (24/03/2021)

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