

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.02.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.939 of 2014

K.Krishnakumar
S/o.Subramaniam,
No.8, Kalirajan Illam,
Varagappa Veethi,
Karungalpalayam Village,
Erode Town.

.. Appellant

Vs.

1.M.Balasubramaniyan

2.The Insurance Company Ltd.,
Branch Office, No.4/32,
East Main Street,
Pudukkottai District.

.. Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Section 30 of the Workmen Compensation Act, against the order of the Commissioner for Workmen's Compensation, Salem in W.C.No.448 of 2006 dated 12.06.2013 served on the Appellant on 31.01.2014.

For Appellant : Mr.S.Kaithamalai Kumaran

For Respondents

For R1 : No appearance

For R2 : No appearance

J U D G M E N T

The appellant herein is the petitioner / injured in W.C.No.448 of 2006, claiming compensation for the injuries sustained by him due to the accident happened on 11.08.2004, during the course of employment as a driver in milk container van bearing Reg.No.TN-45-B-8003 belonging to the 1st respondent, which was insured with the 2nd respondent / Insurance Company.

2. The respondents contested the case.

3. After full trial, the Commissioner for Workmen's Compensation, Salem, dismissed the claim petition and concluded that the appellant was not residing in the petition mentioned

address at Erode, accordingly the Labour Commissioner has no jurisdiction to dispose the matter, thereby, the petition was dismissed. Aggrieved by the order, the appellant preferred this Civil Miscellaneous appeal.

4. To support his case, the appellant / petitioner relied on the documents which were marked as Exs.P.1 to Ex.P.14 and he was examined as P.W.1 and the Doctor was examined as P.W.2 and on the side of the respondents, VAO was examined as R.W.1 and objection letter dated 21.12.2006, received from the 1st respondent was examined as Ex.R.1.

5. On perusal of the records, during the course of cross-examination of P.W.1, he admits that his native place at Cuddalore and not produced any document to establish that he was residing in the address mentioned in the alleged petition at Erode. Further more, on perusal of the documents it reveals that he has not produced any documents to establish that he was residing at Erode Town. All the documents filed on the side of the appellant's marked reveals that he has residing at Erode town. In fact, the accident was happened near Dharapuram, Erode, District. At that time, the appellant's address was mentioned that he has residing at Erode Town. But to support his contention there is no material evidence on the side of the appellant. On the other hand, facts reveals that he was residing at Kurichipadi Sri Lanakn Refugees Camp, Cuddalore.

6. Considering all these facts the Labour Commissioner dismissed the appellant's claim as, there is no jurisdiction to decide the issue, but as rightly pointed out by the appellant counsel, the Labour Commissioner ought to have remitted the matter to the appropriate forum at Cuddalore District instead the Commissioner for Workmen's Compensation, Salem dismissed the claim.

7. In view of the above, this Civil Miscellaneous Appeal is Allowed and the order passed by the Labour Commissioner is set aside. Accordingly, the petitioner is permitted to withdraw the petition from the file of the Labour Commissioner, Salem, and direct the appellant to represent the petition before the appropriate forum at Cuddalore District, within a period of two months from the date of receipt of a copy of the judgment. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rri

To,

The Commissioner for Workmen's Compensation, Salem.

+1cc to Mr.S.Kaithaimalai kumaran , Advocate SR.No. 7930

+1cc to Mr.J.Chandran , Advocate SR.No. 8073

C.M.A.No.939 of 2014

A.SK(31.03.2021)