

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.01.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.4012 of 2019
and
C.M.P.No.22664 of 2019

Divisional Manager
National Insurance Co. Ltd.,
D.O.110, J.N.Street,
Puducherry - 605 001.

.. Appellant

Versus

1.K. Saravanan
2.Sri Venkateswara Medical College
& Hospital, Ariyur,
Puducherry - 605 102.

3.Balaji Engineering Workshop,
Nellikuppam Main Road,
Nellikuppam, Panruti Taluk,
Cuddalore District.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act 1923, to set aside the award dated 24.07.2019 made in W.C.No.303/2016 on the file of the Commissioner for Workmen's Compensation-2 Court, (Joint Commissioner of Labour - 2, Teynampet, Chennai - 600 006).

For Appellant : Mr. S. Vadivel

For Respondents : Mr. A.N. Viswanatha Rao, for R1
R2 - No Appearance
R3 - Died

J U D G M E N T

The substantial question of law raised in the appeal on hand is that whether the the Deputy Commissioner of Labour is right in fixing the liability on the appellant-National Insurance Company. Despite the fact that the nature of Workmen Compensation Policy is Workers Welfare Policy and therefore, the Deputy Commissioner of Labour committed an error.

2. The National Insurance Company is the appellant. The first respondent is the claimant who filed an application seeking compensation under Section 10 of the Workmen Compensation Act on the ground that the first respondent was a workmen (skilled) employed by the third respondent Balaji Engineering Workshop. On 29.03.2016, while the first respondent was performing the grill fixing work along with other co-workmen in the 3rd floor of the hospital, met with an accident and sustained grievous injuries. He had taken treatment and thereafter filed an application seeking compensation. The Deputy Commissioner of Labour adjudicated the issues with reference to the documents and evidences produced by the respective parties.

3. The learned counsel for the appellant National Insurance Company contended that the appellant Insurance Company is not liable to pay compensation in view of the fact that the nature of policy is the not Workers Welfare Insurance Policy. Therefore, the liability has been erroneously fixed by the Deputy Commissioner of Labour.

4. This Court examined the findings with reference to the documents and the counter filed by the appellant in the claim petition reveals that the appellant Insurance Company admitted the liability. In para 2 of the counter filed by the appellant Insurance Company before the Deputy Commissioner of Labour reads as under:-

"2. This Opposite party submits that the 2nd opposite party insured with this opposite party to one person under Workers Welfare Insurance. As per the said policy covers 2 lakhs for Personal Accident and 1 lakh for medical expenses. As per Section - 1 of the said policy, such injury shall cause total or irrecoverable loss of any part of body. Hence, this Opposite party is not liable to pay any compensation to the petitioner and on the sole ground, the claim application has to be dismissed in respect of this opposite party."

5. The Deputy Commissioner of Labour also restricted the liability of the appellant Insurance Company with reference to the policy by awarding the sum of Rs.2,00,000/- compensation along with the medical expenses of Rs.2,02,406/-. When the Deputy Commissioner of Labour has rightly restricted the compensation as per the terms and conditions of the Workers Welfare Insurance, there is no reason to deny liability in totality. This apart, regarding the liability, the appellant Insurance Company had not let in any evidence nor produce any documents to establish the same. In the absence of any evidence to establish exoneration from the liability, the Deputy

Commissioner of Labour is right in awarding compensation as per the terms and conditions of the policy by fixing a sum of Rs.2,00,000/- along with the medical expenses. A balance amount of Rs.2,40,316/-, is directed to be paid by the employer. This being the award, this Court do not find any perversity or infirmity as such, and the liability is fixed in accordance with the nature of policy which is an admitted fact by the appellant before the Deputy Commissioner of Labour through their counter. Thus, the award dated 24.07.2019, passed in W.C.No.303/2016 stands confirmed. CMA.No.4012/2019 stands dismissed. No costs. Consequently, miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

AT

To

The Joint Commissioner of Labour - 2/
Commissioner for Workmen's Compensation-2 Court,
Teynampet, Chennai - 600 006.

+1cc to M/s.A.N.Viswanatha Rao, Advocate SR.3724

+1cc to M/s.S.Vadivel, Advocate SR.3175

C.M.A.No.4012 of 2019 and
C.M.P.No.22664 of 2019

SSV(CO)
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