

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.02.2021
CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.226 of 2017

ICICI Lombard Motor Insurance Co.Ltd.,
Chottabai Center, II Floor, No.140,
Nungambakkam High Road,
Chennai-600 034.

..Appellant/3rd Respondent

vs.

1.S.Parameswari
2.Minor S.Sindhu
3.Minor S.Jothi
4.Minor S.Valli
(Respondents 2 to 4 rep.by their
Friend & Guardain/the first respondent)

5.S.Pommi Ammal ..Respondents 1 to 5/Claimant

6.M/s.Himkhans Engg. Works,
No.34/59-B, Sidco Industrial Estate,
Ambattur, Chennai-600 098.

7.Sri Kamalakkannan ..Respondents 6 & 7/Respondents 1 & 2

PRAYER : Civil Miscellaneous Appeal filed under Section 30 of
Workmen Compensation Act, against the award passed in W.C.No.332
of 2008 dated 04.03.2015 on the file of the Commissioner for
Workmen Compensation No.2, Chennai (Deputy Commissioner of
Labour No.2).

For Petitioner : Mr.E.Elamurugan
for Mr.K.K.Ramakrishna

For Respondents : M/s.A.Subadra
for M/s.F.Terry Chellaraja
for RR1 to 4
R5-Died-steps due
RR6 & 7-No such person

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O R D E R

The Civil Miscellaneous Appeal is filed against the
award passed in W.C.No.332 of 2008 dated 04.03.2015 on the file
of the Commissioner for Workmen Compensation No.2, Chennai
(Deputy Commissioner of Labour No.2).

2. The substantial question of law raised by the
appellant/Insurance Company is that whether the trial Court is

right in holding that the deceased was a workman under the sixth respondent in the absence of any evidence; Whether the employer/employee relationship was established;

3. Though the questions of law raised are related to the facts and circumstances, the learned counsel appearing for the appellant contended that the claimants have not established that the deceased was employed under the sixth respondent with sufficient evidence. Therefore, the liability cannot be fixed on the appellant/Insurance Company.

4. The respondents/claimants are the legal heirs of the deceased and the first applicant, who is the wife of the deceased, has stated that her husband was working as a Helper in Crane bearing Registration No.TN-20-AW-9373 belonging to the sixth respondent. He was drawing a monthly salary of Rs.5,000/-. On 22.03.2008, as per the directions of the 6th respondent/employer, the husband of the first respondent went to M/s.Venkateswara Polymers Private Limited at No.417, Sidco Estate, Chennai-9 along with the 7th respondent who was the driver of the said crane to assist him into relocate a machine with the help of Crane. On the same day at about 12.00 hours, the deceased/Seenu was standing in the crane and helping the driver. The driver, in a rash and negligent manner, raised the crane and since the crane touched the overhead high tension electricity wire, electricity passed through the crane and the husband of the first respondent/Seenu got electrocuted and thrown away and sustained fatal injuries. A case was registered before the T-2, Ambattur Police Station in Crime No.147 of 2008 on 22.03.2008 itself. The claimants produced that the Insurance Policy Coverage is in-force. The husband of the first respondent died during the course of employment. The Deputy Commissioner of Labour adjudicated the issues with reference to the documents as well as the evidence produced. The findings of the Deputy Commissioner of Labour categorically enumerates that during re-examination, the driver and the helper was sent by the employer. The Deputy Commissioner of Labour mainly relied upon Ex.A1/F.I.R and the charge sheet marked as Ex.A7. Relying on the FIR and the Charge sheet filed by the police, the Deputy Commissioner of Labour arrived a conclusion that the deceased/Seenu was working in a Crane belongs to the 6th respondent bearing Registration No.TN-20-AW-9373 at M/s.Venkateswara Polymers Private Limited. The factum regarding the accident was established beyond any pale of doubt. The F.I.R as well as the charge sheet reveals that the deceased was working on the spot at the time of his death. As per Ex.B3/Insurance Policy, it is stated that "Basic Third Party Liability:800. Paid Driver (IMT) 25 Total 825 Add:Cleaner/Conductor/Coolies (IMT 40) 25 Total 850 is mentioned". Considering the nature of the policy and further based on the F.I.R and the charge sheet, the Deputy Commissioner

of Labour arrived a conclusion that the employer/employee relationship existed and further, there was an Insurance Policy in-force.

5. Under these circumstances, the Deputy Commissioner of Labour awarded a total compensation of Rs.3,76,865/- (Rupees Three Lakhs Seventy Six Thousand Eight Hundred and Sixty Five Rupees Only) along with interest at the rate of 12% per annum. This Court do not find any infirmity or perversity as such. The question of law raised deserves no merit consideration as the employer/employee relationship was established and the factum regarding the accident was also established. In view of the fact that there is an Insurance Policy Coverage, the Deputy Commissioner of Labour has rightly awarded the compensation. Thus, the award dated 04.03.2015 passed in W.C.No.332 of 2008 stands confirmed and consequently, the Civil Miscellaneous Appeal stands dismissed. The major claimants are permitted to withdraw their respective portion of the award amount by filing an application and the payments are to be made through RTGS. As far as the minor claimants are concerned, their respective portion of the award amount are to be deposited in any one of the Nationalised bank in an interest bearing deposit scheme, till the minors attain the age of majority. No costs.

Sd/-

Assistant Registrar (CS.VIII)

/True Copy/

Sub Assistant Registrar

To

The Commissioner for Workmen Compensation No.2, Chennai (Deputy Commissioner of Labour No.2).

Copy to : The Section Officer, V.R.Section,
High Court of Madras, Chennai.

+1cc to Mr.M.Malar, Advocate Sr.No.5042

AKM/26.2.21 /3P-4C/

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