



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

WEB COPY

C.M.A. (MD) Nos.1534 & 1535 of 2008

and

M.P. (MD) Nos.2 & 2 of 2008

The Branch Manager
New India Assurance Company Ltd.,
92, G.N.Ghetty Street
T.Nagar, Chennai

... Appellant in both appeals/
2nd Respondent

-vs-

1.Kavidasan ... 1st Respondent in
C.M.A.(MD) No.1534 of 2008/ Petitioner

2.Rahuman ... 1st Respondent in
C.M.A.(MD) No.1535 of 2008/ Petitioner

3.Balamurugan ... 2nd Respondent in both appeals/
1st Respondent

PRAYER (in C.M.A. (MD) No.1534 of 2008): Civil Miscellaneous Appeal is filed under Section 30 of Workmen Compensation Act, to set aside the award dated 29.02.2008, passed by the Commissioner of Workmen Compensation (Deputy Commissioner of Labour), Trichy, in W.C.No.395 of 2005.

PRAYER (in C.M.A. (MD) No.1535 of 2008): Civil Miscellaneous Appeal is filed under Section 30 of Workmen Compensation Act, to set aside the award dated 29.02.2008, passed by the Commissioner of Workmen Compensation (Deputy Commissioner of Labour), Trichy, in W.C.No.396 of 2005.

For Appellant : Mr.S.Sankar
(in both C.M.As.) for Mr.B.Vijay Karthikeyan

For Respondents : No appearance
(in both C.M.As.)



C O M M O N J U D G M E N T

These civil miscellaneous appeals have been preferred challenging the orders dated 29.02.2008 in W.C.Nos.395 & 396 of 2005, passed by the Deputy Commissioner of Labour, Commissioner of Workmen Compensation, Trichy, granting compensation to the loadman Kavidasan and cleaner Rahuman, who are the first respondent herein and having met with an accident and suffered injuries in the course and out of the employment. The second respondent in both the appeals is the owner of the light goods carriage vehicle.

2. According to the appellant - Insurance Company, there is a violation of policy conditions and that there cannot be any cleaner engaged in a light goods carriage vehicle and he is not covered by the insurance policy and no amount of compensation can be foisted on the Insurance Company. Further, according to the appellant - Insurance Company, when the goods carriage vehicle having one seat capacity and of less than 500 kgs. unladen weight, the Authority was erred in awarding compensation and foisting it on the appellant needs to be interfered with.

3. The respondents have been served and none appeared for the owner of the Auto, namely, Balamurugan and no counsel has entered appearance for workmen.

4. From a reading of the order, it is very clear that the vehicle bearing registration No.TN45 AD1859 has a valid policy and that second respondent Balamurugan is the owner of the vehicle. Merely because the insurance policy is valid, it does not mean that the Insurance Company shall be foisted with the liability to pay compensation. It is not in dispute that the loadman and the cleaner are employed by the second respondent. The second respondent has permitted them to go in the said vehicle, which ultimately met with an accident and those two employees suffered injuries in the course and out of the employment. Hence, the factum of accident as well as the employer-employee relationship between the workmen and Balamurugan is not in dispute. The relief that may be granted under the Motor Vehicles Act, 1988 is completely different from the one that may be granted under the Workmen's Compensation Act, 1923. In the present case on hand, as there is a valid insurance policy, this Court is of the view that the amount determined by the Authority concerned, which is in deposit, shall be withdrawn by the claimants. For violation of policy conditions, it is needless to mention that the Insurance Company shall proceed against the owner of the vehicle to recover the amount payable to the claimants.



5. Accordingly, the civil miscellaneous appeals are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the Judgment may be utilized for official purposes, but, ensuring that the copy of the Judgment that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To:

1.The Commissioner of Workmen Compensation
(Deputy Commissioner of Labour),
Trichy.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

+1 CC to M/s.B. VIJAY KARTHIKEYAN, Advocate (SR-35266[F] dated 19/11/2021)

C.M.A. (MD) Nos.1534 & 1535 of 2008

and

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RD(09.12.2021) 3P 5C