



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED :16.12.2020

DATE ON WHICH PRONOUNCED: 06.01.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

C.M.A(MD) Nos.279 to 281 of 2011

and

MP(MD) Nos.2, 2 & 2 of 2011

WEB COPY

The manager,
United India Insurance Company Limited,
Jeevajothi Buildings,
Salai Road,
Dindigul.

... Appellant/2nd Respondent
(in all petitions)

vs.

M.Veerammal

... 1st Respondent / Petitioner
(In C.M.A(MD) No.279 of 2011)

P.Mayilammal

... 1st Respondent / Petitioner
(In C.M.A(MD) No.280 of 2011)

P.Krishnan

... 1st Respondent / Petitioner
(In C.M.A(MD) No.281 of 2011)

2.P.Jesuraj

... 2nd Respondent / 1st Respondent
(in all petitions)

Common Prayer: Civil Miscellaneous Appeals filed under Section 30 of Workmen's Compensation Act, 1923, against the award dated 29.05.2007 made in W.C.Nos.142, 143 & 144 of 2005 on the file of the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour) at Dindigul.

For Appellant : Mr.J.S.Murali
(in all petitions)

For R1 : No Appearance
(in all petitions)

For R2 : No Appearance
(in all petitions)

COMMON JUDGMENT

These Civil Miscellaneous Appeals have been filed against the award, dated 29.05.2007 made in W.C.Nos.142, 143 & 144 of 2005, on
<https://hcservices.ecourts.gov.in/hcservices/>



the file of the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour) at Dindigul.

2. (i) The claimant in W.C.No.142 of 2005 is one Veerammal. According to her, she was working as a Loadman under the first respondent for monthly salary of Rs.4,500/- and was getting Rs.50/- as batta and she earned a total amount of Rs.6,000/- per month.

(ii) (i) The claimant in W.C.No.143 of 2005 is one Mayilammal. She would also say that she was working as a Loadman under the first respondent and earned Rs.4,500/- per month, apart from Rs.50/- as batta. Totally, she earned Rs.6,000/- per month.

(iii) Similarly, the claimant in W.C.No.144 of 2005 is one P.Krishnan. He was also working as a Loadman under the first respondent and getting Rs.4,500/- per month as salary, apart from Rs.50/- as batta. Totally, he was getting Rs.6,000/- as monthly salary.

3. The common case of the claimants before the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour) at Dindigul is that the petitioners were working as Loadman under the first respondent, who was owning the Mini Auto bearing Registration No.TN 57-H-8140 and were drawing a sum of Rs.4,500/- as monthly salary and a sum of Rs.50/- as batta. So, receiving Rs.6,000/- per month.

4. On 09.02.2005, after unloading the fertilizers to one Natarajan, the Mini Auto was proceeding to drop the employees and at that time, the Auto driver lost his control and it capsized.

(i) Due to the accident, the claimant in W.C.No.142 of 2005, suffered fracture on the left clavicle bone and she was admitted in the City Hospital, Dindigul and taken treatment as inpatient from 09.02.2005 to 24.02.2005. She underwent surgery for the fracture. So, because of the accidental injuries, she is not in a position to do any work as before. She spent more than Rs.30,000/- towards medical treatment. She was aged about 33 years. Claiming compensation amount of Rs.5,00,000/- (Rupees Five Lakhs Only), she approached the Commission.

(ii) Due to the accident, the claimant in W.C.No.143 of 2005, suffered injuries on the left clavicle bone and she was admitted in the City Hospital, Dindigul and was taken treatment as inpatient from 09.02.2005 to 24.02.2005. She underwent surgery for the fracture. So, because of the accidental injuries, she is not in a position to do any work as before. She spent more than Rs.30,000/- towards medical treatment. She was aged about 40 years. Claiming compensation amount of Rs.5,00,000/- (Rupees Five Lakhs Only), she approached the Commission.



(iii) Due to the accident, the claimant in W.C.No.144 of 2005, suffered injuries on the left neck and he was admitted in the City Hospital, Dindigul and was taken treatment as inpatient from 09.02.2005 to 24.02.2005. He underwent surgery for the fracture. So, because of the accidental injuries, he is not in a position to do any work as before. He spent more than Rs.30,000/- towards medical treatment. He was aged about 30 years. Claiming compensation amount of Rs.5,00,000/- (Rupees Five Lakhs Only), he approached the Commission.

5.All the three claim petitions were tried separately before the Commissioner and the orders were passed in W.C.No.142 of 2005, W.C.No.143 of 2005 and W.C.No.144 of 2005 respectively. Since a common question of law and facts arose in all these appeals, all the three appeals were heard together and a common judgment was passed.

6.The first respondent contended that the petitioners/claimants suffered only simple injuries and since they were insured with the second respondent, he is not liable to pay compensation.

7. The appellant herein denied the said contention, states that the petitioners/claimants travelled in a goods vehicle as Loadman and they were also not an employee under the first respondent. As per the policy conditions, only the driver can sit and drive and other persons were not permitted to travel.

8. (i) Before the Commission, in W.C.No.142 of 2005, on the side of the petitioner/claimant, two witnesses were examined and nine documents marked. On the side of the second respondent, one witness was examined and one document marked.

(ii) Before the Commission, in W.C.No.143 of 2005, on the side of the petitioner/claimant, two witnesses were examined and nine documents marked. On the side of the second respondent, one witness was examined and one document marked.

iii) Before the Commission, in W.C.No.144 of 2005, on the side of the petitioner/claimant, two witnesses were examined and nine documents marked. On the side of the second respondent, one witness was examined and one document marked.

9. At the conclusion of enquiry, the Commission came to the conclusion that the petitioners were working under the first respondent as Loadman and they suffered injuries in the accident as noted above.

(i) In W.C.No.142 of 2005, the Commissioner after taking into account the injury suffered by the petitioner assessed the compensation amount at Rs.42,119/- (Rupees Forty Two Thousand One Hundred and Nineteen Only) on the basis of the medical evidence and oral evidence of P.W.2, who assessed the



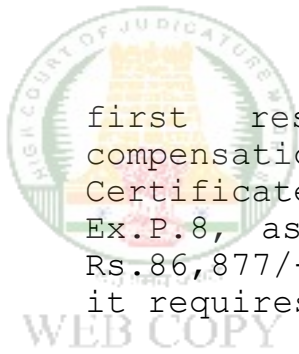
disability of the petitioner. Considering the nature of injury and the disability suffered by the petitioner, I am of the view that the compensation awarded by the Commissioner is just and reasonable and it requires no interference.

(ii) In W.C.No.143 of 2005, the Commissioner after taking into account the injury suffered by the petitioner, assessed the compensation amount at Rs.84,625/- (Rupees Eighty Four Thousand Six Hundred and Twenty Five Only) on the basis of the medical evidence and Ex.P.2, Ex.P.8 and oral evidence of P.W.2, who assessed the disability of the petitioner. Considering the nature of injury and the disability suffered by the petitioner, I am of the view that compensation awarded by the Commissioner is just and reasonable and it requires no interference.

(iii) In W.C.No.144 of 2005, the Commissioner after taking into account the injury suffered by the petitioner, assessed the compensation amount of Rs.86,877/- (Rupees Eighty Six Thousand Eight Hundred and Seventy Seven Only) on the basis of the medical evidence and Ex.P.2, Ex.P.8 and oral evidence of P.W.2, who assessed the disability of the petitioner. Considering the nature of injury and the disability suffered by the petitioner, I am of the view that compensation awarded by the Commissioner is just and reasonable and it requires no interference.

10. The appellant is before this Court mainly on the ground that against the policy conditions and insurance coverage, the petitioners travelled in the offending vehicle and so, there is a violation of policy condition also. Hence, they are not liable to pay compensation. The Commissioner has found that as per the judgment of the Hon'ble Supreme Court in **B.V.Nagarajan Vs Oriental Insurance Company Ltd.**, reported in **1996 ACJ 1176**, even if there any over-riding of persons against the policy conditions, Insurance Company has to take up the responsibility. The appellant relied upon the policy issued by it wherein, it is noted that it is a compulsory policy coverage for a driver and workmen, the premium was paid. So, it is seen that one employee for the first respondent is permitted to travel, for whom, additional premium has been paid. There is no evidence on record, to show that all the petitioners, who were travelling in the vehicle, were also employed under the first respondent against the policy and insurance coverage. The complaint was lodged by one Natarajan, who stated that the owner of the fertilizers, who also travelled along with goods in the vehicle. So, even though, more than one persons were travelling in the goods vehicle, as mentioned earlier, they were stated to be the employees under the first respondent.

11. There is also finding to the effect that the petitioners are the employees under the first respondent. The findings of the Commissioner that the petitioners were working as Loadman under the



first respondent requires no interference. Similarly, the compensation assessed by the Commissioner, on the basis of the Wound Certificate and evidence of P.W.2, disability certificate and Ex.P.8, assessed the compensation at Rs.42,119/-, Rs.84,625/- and Rs.86,877/- respectively. It appears to be reasonable and proper and it requires no interference.

12. In the result, these Civil Miscellaneous Appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar(CS)

dss

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

To

- 1.The Commissioner for Workmen's Compensation
(Deputy Commissioner of Labour),
Dindigul.
2. The Record Keeper, (2 copies)
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+3CC to MR.J.S.MURALI, Advocate (SR-409,407,410[F]dated 07/01/2021)

JUDGMENT MADE IN
C.M.A(MD) Nos.279 to 281 of 2011
and
MP (MD) Nos.2, 2 & 2 of 2011
06.01.2021

VB (05.03.2021) 5P 7C