



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 06.08.2021

Delivered on : 18.11.2021

CORAM:

THE HONOURABLE **MRS.JUSTICE R.THARANI**

WEB COPY

C.M.A(MD) No.892 of 2013

and

M.P.(MD)No.1 of 2013

M/s.ICICI Lombard General Insurance Co.Ltd.,
Near Kohinoor Theatre,
Annamalai Nagar, Trichy. ... Appellant/Respondent No.2
Vs.

1.Alavudeen, ... 1st Respondent/Petitioner
2.S.Kannan, ... 2nd Respondent/1st Respondent
3.M.Arumugam, ... 3rd Respondent/3rd Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 30 of Workman Compensation Act, 1923, against the order, dated 05.03.2012 made in W.C.No.20 of 2009 on the file of the Commissioner of Workmen Compensation - Deputy Commissioner of Labour, Trichy.

For Appellant : Mr.S.Srinivasa Raghavan

For Respondents : No appearance

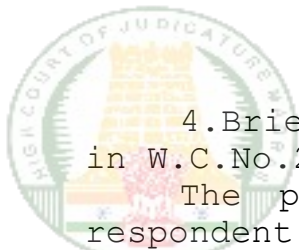
JUDGMENT

This Civil Miscellaneous Appeal is filed against the award, dated 05.03.2012 made in W.C.No.20 of 2009 on the file of the Commissioner of Workmen Compensation - Deputy Commissioner of Labour, Trichy.

2.The appellant herein was the second respondent, the first respondent herein was the claimant and the respondents 2 and 3 were the respondents 1 and 3 in the original claim petition. The first respondent herein / claimant filed a petition in W.C.No.20 of 2009.

3.Brief substance of the petition in W.C.No.20 of 2009, is as follows:-

The petitioner was working as a Driver in a TATA Ace vehicle, bearing Registration No.TN-45-AK-6710, that belonged to the third respondent. On 25.12.2008, when the petitioner was on duty and was driving the vehicle along the Trichy - Thanjavur main road, near Ariyamangalam, a vehicle that came from the opposite direction, dashed against the TATA Ace vehicle and the petitioner sustained injuries and he claimed a sum of Rs.2,00,000/- as compensation.



4. Brief substance of the counter filed by the first respondent in W.C.No.20 of 2009, is as follows:-

The petitioner is not working as a Driver with the first respondent. The vehicle was sold to one Arumugam and the R.C. Book was transferred on 16.06.2008. There is no relationship of employer and employee between the first respondent and the petitioner and prayed the petition to be dismissed.

5. Brief substance of the counter filed by the second respondent in W.C.No.20 of 2009, is as follows:-

The manner of accident and the date of accident are all denied. The vehicle was sold to one Arumugam on 14.07.2008 and on the date of accident, the first respondent is not the owner of the vehicle. There is no relationship of employer and employee between the parties. The petitioner was not having valid driving licence. The vehicle was not having Registration Certificate. Policy conditions are violated. The second respondent is not liable to pay any compensation.

6. The third respondent remained exparte. On the side of the petitioner, two witnesses were examined and nine documents were marked. On the side of the respondents, one witness was examined and two documents were marked.

7. After hearing both sides, the Deputy Commissioner of Labour, awarded a compensation of Rs.1,56,557/-. Against that award, the present Appeal has been filed by the appellant.

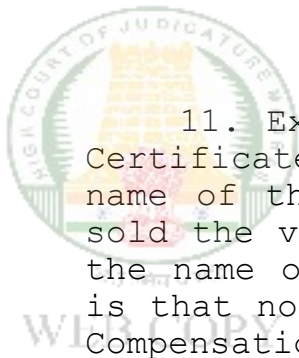
8. This Appeal is admitted on the following substantial question of law:-

(i) Whether the benefit of concept of deemed transfer of policy of insurance available to the third party under Section 157 of the Motor Vehicle Act, is available to a workman under the Workmen Compensation Act?

Issue No.1:

9. On the side of the appellant, it is stated that the Labour Commissioner should not have directed the second respondent to indemnify the third respondent as there was no privity of Contract between the second respondent and the third respondent. The ingredients of Section 157 of the Motor Vehicles Act relating to deemed transfer of policy is not applicable to a claim under the Workmen Compensation Act, the vehicle was sold to the third respondent, but, the policy was not transferred in the name of the third respondent. On the date of accident, there was no privity of Contract between the third respondent and the appellant.

10. Name of the respondents was printed and called upon, though sufficient opportunity was given none appeared for the respondents. Hence, no oral argument on the side of the respondents is recorded and the order is passed on merits.



11. Ex.R1 and Ex.R2 are the delivery note and the Registration Certificate. It is seen that the vehicle was transferred in the name of the third respondent and the first respondent has already sold the vehicle, but, the policy was not officially transferred in the name of the third respondent. The contention of the appellant is that no deemed transfer of policy is available under the Workman Compensation Act.

12. At this juncture, this Court would rely upon the Judgment of the Hon'ble Apex Court in the case of **Firdaus v. Oriental Insurance Co. Ltd., and Ors.** reported in **2017 ACJ 2608**, wherein it is stated as follows:

"In view of the above, it is not necessary for us to give any concluded finding regarding ownership of the vehicle No.HR 2 G 1875 on the date of accident for the purpose of this case. In either of the eventually, I.e. Whether defendant No.1 was the owner of the vehicle on the date of accident, or defendant No.4 was the owner of the vehicle, the liability of Oriental Insurance Co. Ltd., continues and Workmen compensation Commissioner has rightly fastened the liability on the Insurance Company. The remand made by the High Court to find out as to whether Parvez Khan was an employee of the Defendant No.1 or not, was unnecessary."

13. As per the decision of the Apex Court, it is decided that the Insurance company is liable to indemnify the subsequent owner of the vehicle.

14. For the above reasons, the question of law raised by the appellant is not sustainable. There is nothing sufficient enough to interfere in the order, dated 05.03.2012 made in W.C.No.20 of 2009 on the file of the Commissioner of Workmen Compensation - Deputy Commissioner of Labour, Trichy. This Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS III)

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/ /2021

Sub Assistant Registrar(CS)

Ls



To

1.The Commissioner of Workmen Compensation -
Deputy Commissioner of Labour,
Trichy.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S. SRINIVASA RAGHAVAN, Advocate (SR-35048[F] dated
18/11/2021)

C.M.A(MD) No.892 of 2013
18.11.2021

MGJ(08.12.2021) 4P 5C