

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

RESERVED ON	12.11.2021
DELIVERED ON	25.11.2021

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CORAM :**THE HONOURABLE MRS.JUSTICE S.ANANTHI****C.M.A. (MD) .No.638 of 2020****and****C.M.P. (MD) No.6535 of 2020**

The Branch Manager,
United India Insurance Company Limited,
Tiruchengode Taluk,
Namakkal District.

...Appellant/2nd Respondent

Vs.

1. N.Rajasekaran
2.Selvi
3.P.Devarajan

...R-1 & R-2/Claimants
...R-3/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Employee's Compensation Act, to set aside the order passed by the learned Commissioner of Workmen Compensation/Deputy Commissioner of Labour Tribunal, Tiruchirappalli in W.C.No.105 of 2008 dated 18.12.2019 and dismiss the same as against the appellant.

For Appellant :Mr.N.Dilip Kumar

For R-1 & R-2 :Mr.S.K.Mani

ORDER

This Civil Miscellaneous Appeal has been filed to set aside the order passed by the learned Commissioner of Workmen Compensation/Deputy Commissioner of Labour Tribunal, Tiruchirappalli in W.C.No.105 of 2008 dated 18.12.2019.

2. The 1st and 2nd respondent herein/Claimants are parents of the deceased Ramaraj and they have filed a claim petition in W.C.No.105 of 2008 before the learned Commissioner of Workmen Compensation/Deputy Commissioner of Labour Tribunal, Tiruchirappalli, for death of their son. The said W.C.No.105 of 2008 was allowed on 18.12.2019. Against the said order, the Appellant/Insurance company/2nd respondent is before this Court.

3. Heard Mr.N.Dilip Kumar, learned counsel appearing for the appellant and Mr.S.K.Mani, learned counsel appearing for R-1 and R-2.

4. This Civil Miscellaneous Appeal is filed on the ground that the learned Judge erred in determining the liability of the



appellant insurance company without considering the evidence and terms and conditions of the Group Personal Accident Policy and hold that the entire award amount to be paid by the appellant insurance company.

5.The R-1 & R-2 herein/Claimants have filed W.C.No.105 of 2008, to claim compensation for death of their son Ramaraj who died on 28.11.2006 while working under the 3rd respondent herein to put borewell at Peerangan doss, Ajmeer District, Rajasthan. The learned Commissioner of Workmen Compensation/Deputy Commissioner of Labour Tribunal, Tiruchirappalli, has awarded a sum of Rs.1,71,405/-as compensation with 12% interest.

6.The learned counsel appearing for the appellant contended that there was no employer and employee relationship between the 2nd respondent herein and the deceased and also the deceased not died during the course of employment. But, the reply notice which was issued by the 3rd respondent/1st respondent was marked as Ex.A.11 which clearly proves that the relationship between the employer and employee and also the fact that the deceased died during the course of employment.

7.Further, he contended that the liability under the Group Personal Accident Policy is limited to Rs.1,00,000/-only for helpers in Rig Units. Hence, the entire liability cannot be fastened upon the appellant insurance company and the insurance company is liable to pay only the amount payable to the employer as per the terms of the said policy.

8.There is no doubt that as per Ex.A.8 personal policy the insurance company has to pay only Rs.1 lakh. But, in the particular accident Rig vehicle was involved which was insured under the Special coverage policy.

9.The vehicle policy was also produced by the 3rd respondent herein and the same was marked as Ex.R.1.

10.The relevant portion of the Judgment reported in **2019 ACJ 1145**, in the case of **Kaustav gogoi and another Vs. Bharati Gogoi and others** is extracted hereunder:

.....

"There is no doubt that the personal accident coverage would be in addition to the initial liability covering against case made by the passengers/occupants. The liability to the extent of Rs.1,00,000/-is held to be personal accident liability and the same is in addition to the policy of the vehicle and this view supplemented by the circulars issued by Insurance Regulatory and Development Authority which is quoted by the



Hon'ble Supreme Court in the case of **Balakrishnan)**" and finally it held with 'the liability could not be limited to Rs.1,00,000/-and rather the liability will be to the extent of such award as may be finally passed in the case. "

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From the above, the Labour Tribunal has rightly awarded the compensation.

11.When the appellant/insurance company admitted that the insurance policy for the vehicle which cannot go into adverse of the policy.

12.The Labour Tribunal has rightly awarded the compensation to the claimants. Therefore, this Court has no valid reason to interfere with the order passed by the Labour Tribunal.

13.Finally, this Civil Miscellaneous Appeal is dismissed by confirming the order, dated 18.12.2019 passed by the learned Commissioner of Workmen Compensation/Deputy Commissioner of Labour Tribunal, Tiruchirappalli in W.C.No.105 of 2008. No costs. Consequently, connected miscellaneous petition is 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 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

The Commissioner of Workmen Compensation/
Deputy Commissioner of Labour Tribunal,
Tiruchirappalli.

Cop to

The Section Officer, V.R.Section,
Madurai Bench of Madras High Court,
Madurai

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+1 CC to M/s.N. DILIP KUMAR, Advocate (SR-36149[F] dated 26/11/2021

C.M.A. (MD) .No.638 of 2020
25.11.2021

TSK(CO)

KB(08.12.2021) 4P 4C