



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD) .No. 814 of 2021

and

C.M.P. (MD) No.7509 of 2021

The Branch Manager,
M/s.National Insurance Company Limited,
Branch Office No.II, 1st Floor,
Jerom Building, Fort Station,
Trichy-620 002.

...Appellant/2nd Respondent

Vs.

1.N.Raja

...R-1/Petitioner

2.M.Poomani

...R-2/1st Respondent

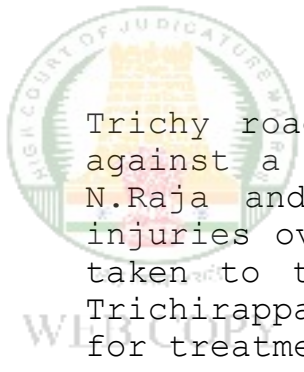
PRAYER: Civil Miscellaneous Appeal filed under Section 30 of workmen Compensation Act against the Award dated 30.04.2021 made in E.C.No.7 of 2017 on the file of the Commissioner of Workmen Compensation (Deputy Commissioner of Labour), Trichy and allow this Civil Miscellaneous Appeal.

For Petitioner : Mr.S.Srinivasa Raghavan
For Respondent No.1: Mr.K.Hema Karthikeyan
For Respondent No.2: No Appearance

ORDER

This Civil Miscellaneous Appeal has been filed to set aside the Judgment and Decree dated 30.04.2021 made in E.C.No.7 of 2017 on the file of the Commissioner of Workmen Compensation (Deputy Commissioner of Labour), Trichy.

2.It is submitted that the petitioner was working as a Loadman in the Lorry owned by AP oil mill run by the second respondent. It is a case of accident, which took place on 24.09.2015, at about 07.30 p.m., when the first respondent N.Raja was travelling in the loaded Lorry bearing Registration No.TN-45-AK-7315 with one Karthick who is the Driver of the load vehicle, travelling from Thanjavur to



Trichy road, near Thuvakudi Toll Plaza, the Loaded Lorry dashed against a vehicle running in front them and the first respondent N.Raja and the Driver Karthick were sustained multiple grievous injuries over their body and fracture in hands and legs. They were taken to the Government Hospital, Thuvakudi, Government Hospital, Trichirappalli and referred to Thillainagar Trichi Medical Centre for treatment as inpatient.

3.The first respondent herein / claimant has filed a petition in E.C.No.7 of 2017 before the Commissioner of Workmen Compensation (Deputy Commissioner of Labour), Trichy, seeking compensation.

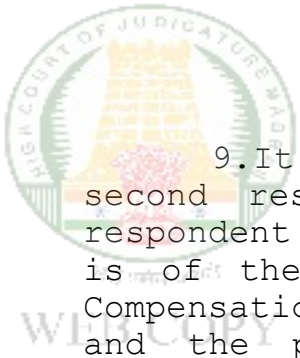
4.Before the Tribunal, on the side of the claimants two witnesses were examined as P.Ws.1 and 2 and marked ten documents as Exs.P.1 to P.10. One exhibit marked as Ex.R.1.

5.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the claimant and the insurance company and also on appreciating the evidences on record, held that the accident occurred only, due to the negligence of the Driver of the Loaded Lorry and the insurance company is liable to compensate to the petitioner herein / claimant and directed the appellant/insurance company to pay a sum of Rs.2,35,926/- (Rupees Two Lakhs Thirty Five Thousand Nine Hundred and Twenty Six only) as compensation in E.C.No.7 of 2017.

6.The appellant/insurance company has filed the present appeal against the award passed by the tribunal.

7. Heard on either side. Perused the material documents available on record.

8. The Insurance company filed this appeal to set aside the award in E.C.No.7 of 2017 dated 30.04.2021 on the file of the Deputy Commissioner of Labour, Trichy, on the ground that the relationship between the first respondent and the injured is not admitted and the injured is not an employee of the first respondent. But as per Ex.P1, the First Information Report, the injured was working as loadman in the AP Oil Mill run by the second respondent. Even in the First Information Report and also as per the Registration Certificate Ex.P.3, the vehicle involved in the accident bearing registration No.TN 45 AK 7315 belongs to the second respondent. The Registration Certificate of the vehicle also in the name of the second respondent. The vehicle was also insured under the appellant. No contract evidence let in by the insurance company. There is no ground regarding the quantum. So as per the Ex.P1 and Ex.P3, the first respondent/claimant proved that he is the employee under the second respondent herein. The Deputy Commissioner of Labour, Trichy, has rightly fixed the liability on the appellant and allowed the petition in E.C.No.7 of 2017.



9.It is very clear from the materials on record that the second respondent is liable to pay compensation to the first respondent for the injuries sustained by him. Therefore, this Court is of the view that the award of the Commissioner of Workmen Compensation (Deputy Commissioner of Labour), Trichy, is confirmed and the petitioner herein, is directed to deposit a sum of Rs.2,35,926/- (Rupees Two Lakhs Thirty Five Thousand Nine Hundred and Twenty Six only) as compensation to the first respondent herein. After depositing the award amount, the first respondent /claimant is entitled to withdraw the award amount.

10.Accordingly, this Civil Miscellaneous Appeal is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

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),
Trichy.

Copy to:

The Section Officer, V.R.Section,
Madurai Bench of Madras High Court, Madurai. (2 COPIES)

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-37477[F] dated 06/12/2021)

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RD(3.01.2022) 3P 5C