



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.304 of 2015

and

CMP(MD)No.1 of 2015

Branch Manager,
The Cholamandalam MS General
Insurance Company Ltd.,
"Dare House" 2nd Floor,
NSC Bose Road,
Chennai-600 001.

: Appellant/2nd Respondent

Vs.

1.S.Venkatesan

: Respondent/Petitioner

2.Thiru.K.Senthilkumar

: Respondent/R1

PRAYER: Civil Miscellaneous Appeal has been filed under Section 30 of the Workmen Compensation Act, against the award, dated 08.10.2012 made in WC No.268 of 2008 on the file of the Commissioner of Workmen Compensation (Deputy Commissioner of Labour), Trichy.

For Appellant : Mr.S.Srinivasa Raghavan

For 1st Respondent : No appearance

For 2nd Respondent : Mr.P.Jeganathan

JUDGMENT

Challenge made in this appeal is to the award, dated 08.10.2012 made in WC No.268 of 2008 on the file of the Commissioner of Workmen Compensation (Deputy Commissioner of Labour), Trichy.

2.The brief facts of the case are that on 06.03.2008, the claimant started his trip to Mudumalai with passengers in TATA Indica TN-59-M-2020 and when they were proceeding to Mudhumalai in the 26th Hair Pin Bend, in order to avoid a pit on the road, the claimant applied sudden break, resulting in loss of control of the vehicle and dashed against the road side tree. Due to the impact, he sustained multiple injuries all over his body and also fracture in his right ankle and hip. The claimant filed a claim petition seeking compensation of Rs.5,00,000/- for the injuries sustained by him.

3.The claimant has stated that at the time of the accident, he was at the age of 30 and he was employed as a driver of TATA Indica under the 1st respondent K.Senthilkumar and he was getting Rs.8,000/- per month. A criminal case in Crime No.54 of 2008 was registered by the Pudhumadu Police with regard to the accident.



4. The claim was opposed by the appellant Insurance Company disputing the manner of accident and their liability to pay compensation.

5. The learned Deputy Commissioner of Labour, Trichy, upon consideration of oral and documentary evidence, came to the conclusion that there was employer-employee relationship in favour of the injured claimant and the owner of the vehicle and awarded compensation of Rs. 1,74,703/- directing the Insurance Company to pay the amount to the claimant. Aggrieved by the award of the tribunal, the appellant Insurance Company is before this court.

6. Heard both sides and perused the materials available on record.

7. It is not in dispute that the claimant is working under the 1st respondent as a Driver in the TATA Indica Car TN-59-M-2020 and the alleged accident had occurred on 08.03.2008. It is also not in dispute with regard to the employer and employee relation between the 1st respondent and the claimant.

8. The Appellant has not disputed the fact that the claimant was working as a Driver under the 1st respondent at the time of the accident. The accident had taken place during the course of the employment and based on the evidence of PW1 and Ex.P1, the Deputy Commissioner of Workmen Compensation, Trichy has rightly held that the claimant is entitled for compensation.

9. PW2 Dr.A.R.Ravi has given evidence stating that the claimant sustained multiple injuries all over his body and had and also fracture in his right ankle and hit and due to the fracture, the movement of the leg is restricted to 25 degree on the upper and 30 degree on the lower and that he suffered 44% disability. Based on the above evidence, the Deputy Commissioner of Labour has awarded compensation of Rs.1,74,703/-. The award of the Deputy Commission of Labour is based on evidence and there is no substantial question of law arises for consideration by this court.

10. In the result, the appeal is dismissed. However, no order as to costs. Consequently, connected Miscellaneous Petition is closed.

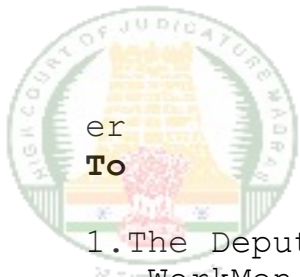
Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)



er
To

1. The Deputy Commissioner of Labour
WorkMen Compensation, Trichy.

2. The Record Keeper,
V.R Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-4062[F] dated
09/02/2021)

+1 CC to M/s.P.JEGANATHAN, Advocate (SR-4507[F] dated 11/02/2021)

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