



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2022

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A(MD)No.863 of 2012

and

C.M.P(MD) .No.2 of 2012

Branch Manager,
The Oriental Insurance Company Limited,
Periyakulam Road,
Theni Town,
Theni District.

...Appellant/Second respondent

.vs.

1.P.Thangaraj

2.T.Parvathi

... 1 & 2nd respondent/
1 to 2nd petitioners

3.M.Gunasekaran

(3rd respondent remained
exparte before the lower Court)

... 3rd Respondent/1st respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act to set aside the award of Rs.4,52,940/- (Rupees Four Lakhs Fifty Two Thousand Nine Hundred and Forty only) passed in W.C.No.116 of 2009 dated 31.01.2012 on the file of the Commissioner for Workmen's Compensation, (Deputy Commissioner of Labour), Dindigul.

For Appellant

: Mr.C.Jawakar Ravindran

For Respondent

: Mr.K.Mahalingam
for R1 and R2
R3-Exparte(vide in EB)

JUDGMENT

This appeal is preferred by the Oriental Insurance Company/second respondent against the award dated 31.01.2012 passed in W.C.No.116 of 2009 on the file of the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Dindigul.



2.The brief facts of the case are as follows:-

(i) The claimants are the parents of the deceased.

(ii) The deceased was aged about 20 years, at the time of the accident. He was working as a driver and was earning a sum of Rs.4,000/- per month. He worked under the employment of the first respondent.

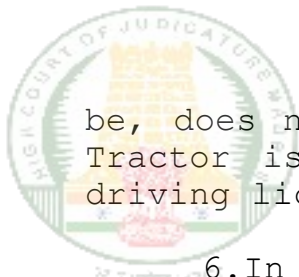
(iii) Brief facts: On 23.08.2008, at about 06.30 hours, the deceased was driving the Tractor bearing Registration No.TN-60-X-7848 owned by the first respondent from Kallapatti to Seepalakottai. At that time, the Tractor capsized with soil load and due to the asphyxia, the deceased was died on the spot. The first respondent therein is the owner of the said Tractor and the second respondent therein is the insurer of the said Tractor. The claimants had given a complaint before the Theni Police Station for the above said occurrence and the same was registered in Crime No.68 of 2008 under Section 174 Cr.P.C.

(iv) The respondents 1 and 2 filed an application before the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour) Dindigul, in W.C.No.116 of 2009 seeking compensation for the above said accident for an amount of Rs.10,00,000/- (Rupees Ten Lakhs only). After considering the evidence and the relevant documents, the learned Commissioner for Employees Compensation awarded Rs.4,52,940/- (Rupees Four Lakhs Fifty Two Thousand Nine Hundred and Forty only) with interest at the rate of 12% p.a. from the date of occurrence. Against which, the Insurance Company herein had preferred this appeal before this Court.

3.Heard the learned counsel for the appellant and the learned counsel for the respondent and produced the materials placed before this Court.

4.The Tractor driven by the deceased at the time of the accident belongs to the first respondent/third respondent, which was insured with the second respondent/appellant. On perusal of Ex.P5, it shows that the at the time of the accident, the deceased was having valid driving licence to drive four wheeler, namely, LMV and he is not having any valid driving licence to drive the Tractor at the time of the accident.

5. However, in the present settled proposition of law of the Honourable Supreme Court in the case of **Mukund Dewangan vs. Oriental Insurance Company Limited** reported in **2017 (2) TN MAC 145 (SC)**, it has been held that, if a licence is issued to drive 'Light Motor Vehicle', it would also mean specific authorization to drive a transport vehicle or omnibus, the gross vehicle weight or motor car, road roller or tractor, the unladen weight of which, as the case may



be, does not exceed 7500 kg. In the present case, since the said Tractor is weighing less than 7500 kg, the badge endorsement in driving licence is not necessary.

6. In this view of the matter, the award passed by the Tribunal is just and reasonable and does not require any interference at the appellate stage. Accordingly, the appeal is liable to be dismissed.

7. In the result,

(i) This Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is upheld;

(ii) The appellant - Oriental Insurance Company is directed to deposit the entire compensation awarded by the Tribunal i.e., Rs.4,52,940 /- (if not already deposited) together with interest at the rate of 12% per annum from the date of claim petition till the date of deposit to the credit of W.C.No.116 of 2009, on the file of the Commissioner for Workmen's Compensation, (Deputy Commissioner of Labour), Dindigul, within a period of eight weeks from the date of receipt of a copy of this order;

(iii) On such deposit being made by the appellant, the respondents/claimants are permitted to withdraw the entire amount after following the due process of law; and

(iv) There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The Commissioner for Workmen's Compensation,
(Deputy Commissioner of Labour),
Dindigul,

Copy to:

The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.RAMASUBRAMANIAN, Advocate (SR-14685[F] dated
25/03/2022)

C.M.A(MD) No.863 of 2012

24.03.2022

MGJ(18.04.2022) 3P 5C

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