



C.M.A.(MD)No.63 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE A.A. NAKKIRAN

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and

MP(MD).No.1 of 2010

M/s. United India Insurance Company Limited,
rep. by its Branch Manager,
Having Office at 114/120 Super Bazar,
Tiruchirappalli.

... Appellant/ 2nd Respondent

Vs.

1.A. Backiyaraj
2.A. Pattammal

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of Workmen's Compensation and Deputy Commissioner of Labour, Tiruchirappalli, against the Award dated 17.08.2007 made in W.C.No.88 of 2005 on the file of the Commissioner for Workmen's Compensation and Deputy Commissioner of Labour, Tiruchirappalli,

For Appellant : Mr. J.S.Murali

For 1st Respondent : Mr.K. Govindarajan

* * * * *



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JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant / Insurance Company against the Award, dated 17.08.2007 made in W.C.No.88 of 2005 on the file of the Commissioner for Workmen's Compensation and Deputy Commissioner of Labour, Tiruchirapalli,

2. The 1st respondent / claimant filed the said claim petition in W.C.No.88 of 2005 on the file of the Commissioner for Workmen's Compensation and Deputy Commissioner of Labour, Tiruchirapalli, claiming a sum of Rs.5,00,000/- as compensation, for the injuries sustained by him on 13.12.2004.

3. According to the 1st respondent, he was working as a driver in the Maruthi Amni Van bearing Regn. No.TN 20 F – 0174, belonging to the 2nd respondent. On 13.12.2004 he drove the said vehicle from Thiruchirappalli to Madurai and in order to avoid collusion with the bus belonging to the Transport Corporation, which came in the opposite direction, he turned the vehicle and dashed against a tree, which was



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standing in the road side. In the said accident, has sustained injuries.

Hence, he filed the claim petition.

4. The Tribunal, considering the pleadings, oral and documentary evidence, awarded a total sum of Rs.1,98,557/- as compensation.

5. Aggrieved by the said Award, the appellant / Insurance Company has filed the present Civil Miscellaneous Appeal.

6. The learned counsel appearing for the appellant submitted that there was no employer employee relationship existing between the owner of the vehicle and the 1st respondent. The first respondent has not filed any documents to prove that he was working under the 2nd respondent and therefore, the claim petition is not maintainable and prayed for allowing this appeal. In support of his contention, he has relied on the Judgment of this Court reported in ***2019(1) TNMAC 92 in the case of P. Antharavelu Vs. A. Singaravelu and another*** wherein it has been held that son is owner and the father is driver of the vehicle, is not an



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acceptable fact. Apart from the Ration Card, there is no other document produced to prove that there exists a relationship between the applicant and the first respondent as one of the Workmen and Employer. Thus, he prayed for allowing this appeal.

7. Per contra, learned counsel appearing for the 1st respondent relied on the Judgment reported in ***2017 STPS 3747 Karnataka in the case of United India Insurance Company Limited Belgaum Vs., Ramesh Kamanagouda Patil and Another*** submitted that under the Workmen's Compensation Act, there is no provision which prohibits a son to work and claim to be a workman under his father, other or any other relative and prayed for dismissal of this appeal.

8. A perusal of the records shows that the first respondent has not filed any document to prove that he is working under the 2nd respondent. So, in the absence of any document, the award passed by the Commissioner for Workmen's Compensation and Deputy Commissioner of Labour, Tiruchirapalli in W.C.No. 88 of 2005 is un-sustainable and hence, the Award passed by the Workmen's Compensation and Deputy



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Commissioner of Labour, Tiruchirapalli, dated 17.08.2007 made in W.C.No.88 of 2005 on the file of the Commissioner for Workmen's Compensation and Deputy Commissioner of Labour, Tiruchirapalli is liable to be set aside and accordingly, set aside.

9. In the result, the Civil Miscellaneous Appeal is allowed.

No costs. Consequently, connected Miscellaneous Petition is closed.

15.09.2022

Index :Yes/No
Internet :Yes/No
trp

To

1. The Motor Accident Claims Tribunal /
Chief Judicial Magistrate, Dindigul.

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



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A.A. NAKKIRAN, J.,

trp

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