



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON :17.02.2022

PRONOUNCED ON :15.03.2022

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A(MD)No.603 of 2021

The Branch Manager,
The United India Insurance Company,
Branch Office No.7A, West Veli Street,
Madurai - 625 001. :Appellant/Second Respondent

.vs.

1.Deivalakshmi

2.Sakthi Velraj : Respondents/Petitioners

3.P.Murugesan :Respondent/Second Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Workmen Compensation Act,1923, against the order made in W.C.No.113 of 2017, dated 29.09.2020, on the file of the Workmen Compensation Commissioner of Labour, Madurai.

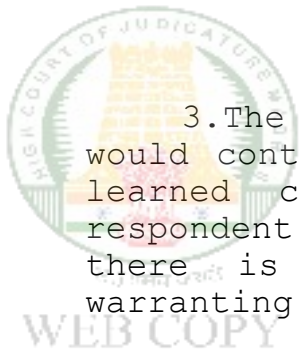
For Appellant :Mr.A.Shajahan

For Respondents :Mr.N.Sudhagar Nagaraj
1 and 2

JUDGMENT

The Insurance Company is the appellant herein,preferred the Civil Miscellaneous Appeal against the order made in W.C.No.113 of 2017, dated 29.09.2020, on the file of the Workmen Compensation Commissioner of Labour, Madurai.

2.The respondents 1 and 2/claimants have filed a claim Petition in W.C.No.113 of 2017, claiming compensation for the death of their son, who has employed with the third respondent herein. Based upon the documents and oral evidence adduced, the Deputy Commmissioner for Labour(Commissioner for Workmen Compensation), Madurai, by order, dated 29.09.2020, has ordered compensation and hence the present Civil Miscellaneous Appeal.



3.The learned counsel for the appellant/Insurance Company would contend that there is no employer-employee relationship. The learned counsel would further contend that since the third respondent is the maternal uncle of the deceased and being related, there is no relationship of employer-employee between them, warranting compensation.

4.Per contra, the learned counsel for the claimants/respondents 1 and 2 would contend that the entire compensation as per order of the Deputy Commissioner for Labour has been deposited. After notice, the claimants have also withdrawn the award amount and made submission in support of the award.

5.Heard the rival submissions of the rival Advocates.

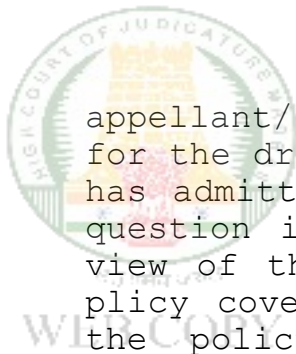
6.The specific plea of the appellant/Insurance Company is that the deceased is the younger brother's son of the owner of the vehicle and hence, there is no employer-employee relationship between them and relied on the decision in:

In the case between United India Insurance Company Limited .vs. Prakash Shankar Gurav and another,in the High Court of Karnataka (Citation:2006(2)T.A.C576(KANT.) HON'BLE ANAND BYRA REDDY.,J(M.F.A.No.6641 of 2003(W.C), decided on 21st July 2005)

(ii)Workmen's Compensation Act, 1923, Section 2(1)(n) - workman -Father engaging his son as an employee in a vehicle owned by Father - Whether such an employment is prohibited in a vehicle owned by father - Whether such an employment is prohibited in law and is not normally possible - Held -(No) - Father can engage his son as employee.

7.Accordingly, merely because the deceased is a relative to the owner of the vehicle, the same will not disqualify him to qualify himself, especially when the owner of the vehicle-cum-employer has filed a written statement specifically admitting the employment and also that the accident having taken place during the course of employment namely, while he was proceeding to the factory for the day's work and hence, in view of the factual position coupled with the above decision, the Tribunal has rightly come to the conclusion that the deceased was an employee of the third respondent herein and the accident had taken place during and in the course of employment.The said finding, in the considered opinion of this Court, does not warrant any interference, which is based on the factual position available on record. Accordingly, the said finding is hereby confirmed.

8.The next contention that has been raised by the



appellant/Insurance Company is that there is no policy coverage for the driver of the vehicle. The appellant/Insurance Company staff has admitted in the cross-examination as R.W.1 that the policy in question is a package policy and the same is marked as Ex.R4. In view of the admitted position that when the policy is a package policy covering the claimant and during the time of accident, when the policy is in force, consequently, the appellant/Insurance Company is liable to pay compensation to the claimant/s.

9.After perusing the quantum of compensation awarded therein, the same seems to be just and reasonable. Accordingly, I hold that there is employer-employee relationship between the third respondent and the son of the claim petitioners and the accident had taken place during and in the course of employment and proper multiplier and factum has been taken note of by the Deputy Commissioner for Labour(Commissioner for workmen compensation), for arriving at the compensation. Therefore, I do not find any reason or error calling for any interference in the order impugned herein and thus the Civil Miscellaneous Appeal fails.

10.For the foregoing reasons, the Civil Miscellaneous Appeal stands dismissed and the order made in W.C.No.113 of 2017, dated 29.09.2020, on the file of the Workmen Compensation Commissioner of Labour, Madurai, is hereby confirmed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsn

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

1.The Workmen Compensation Commissioner
for Labour,
Madurai.



2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1 CC to M/s.A.SHAJAHAN, Advocate (SR-12057[F] dated 15/03/2022)

+1 CC to M/s.N.SUDHAGAR NAGARAJ, Advocate (SR-12249[F] dated
15/03/2022)

C.M.A(MD)No.603 of 2021
15.03.2022

RD(24.03.2022) 4P 6C