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C.M.A.No.3572 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3572 of 2008

and

M.P.No.1 of 2008

M/s.United India Insurance Company Limited,
38 Anna Salai,
Chennai – 600 002.

... Appellant

Vs.

1. P.Chinnadurai
2. M/s.Concord Enterprises,
117, S.N.Chetty Street,
Royapuram, Chennai – 13.

...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, against the order dated 29.11.2007 made in O.P.No.94 of 2006 (received on 7.3.2008) on the file of the Commissioner for Workmen's Compensation (DCL – 1) at Chennai.

For Appellant : Mr.S.Arunkumar

For Respondents : No Appearance [R2]

Not Ready in Notice [R1]



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JUDGEMENT

The Civil Miscellaneous Appeal has been filed against the order dated 29.11.2007 made in O.P.No.94 of 2006 (received on 7.3.2008) on the file of the Commissioner for Workmen's Compensation (DCL – 1) at Chennai.

2. It is the case of the appellant that the first respondent / claimant was employed under the second respondent as cleaner and on 15.03.2005 at about 7:00 p.m. when the first respondent was discharging his duties by standing atop the lorry bearing registration No.TN 04 J1 166 belonging to the second respondent without any indication, the driver of the lorry moved the lorry which resulted in the claimant falling from the lorry and sustaining severe injuries leading to his hospitalization. Therefore, in view of the injuries sustained, the claimant has filed the petition claiming compensation under the Workmen's Compensation Act, 1923.

3. Before the Commissioner of Workmen's Compensation Court, the first respondent / claimant examined himself as P.W.1 and Doctor was examined as P.W.2 and marked exhibits P.1 to P.9 and on the side of insurance



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company they examined R.W.1 and no other documents were marked on their behalf. On the basis of oral and documentary evidences, the award was passed to the tune of Rs.3,19,744/- payable by the appellant / insurer. Challenging the same, the present appeal has been preferred by the appellant / insurance company.

4. The appellant insurance company submits that the accident had occurred in private premises, when the vehicle was stationary. In such a case, the terms and conditions of the policy condition does not stand attracted. He further submitted that under Section 147 of the Motor Vehicles Act, 1988, there comes no liability on behalf of the insurance company to satisfy the award in much as cleaner is concerned. It is further submitted that under the terms of the contract entered into between the owner and the cleaner it was specifically mentioned in the policy that indemnification was restricted for Rs.1,00,000/- only. However, the aforesaid aspects were not properly considered by the Commissioner and therefore the order passed by the Workmen's Compensation Court deserves to be set aside.

5. Though the name of the second respondent was printed in the



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cause list not appeared on his behalf, however considering the pendency of the period of the appeal, this Court is inclined to dispose of the same based on the materials available on record.

6. Heard the learned counsel for the appellant and perused the materials placed on record.

7. The main grievance canvassed on behalf of the appellant is that when the policy is entered into between the insurer and the company only provides for sum of Rs.1,00,000/- to be paid to the person discharging the work of a cleaner, the compensation awarded by the Commissioner is wholly erroneous. Though such a contention is advanced by the learned counsel and even the same forms part of the policy document, however, it is to be pointed out that the Workmen's Compensation Act, provides the mechanism in which the compensation payable to the workman has to be computed. When the statute provides the manner in which the computation has been made it has to be followed in letter and spirit and any terms and conditions entered into between the insurer and the company will not absolve the liability of the insurer from paying the compensation, which otherwise stated that the workman would



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be entitled for compensation under the Workmen's Compensation Act. The only ground canvassed by the insurance company is that the work was done within the premises of the second respondent and therefore the insurance company is not liable to pay the compensation. However, it is to be pointed out that the Workmen's Compensation Act provides for payment of compensation in respect of the injuries suffered by the workman in the course of his employment. The said statute does not distinguish the work being done by the workman inside the premises or outside the premises so long as the workman discharges the work definitely he will be covered for compensation. In the case on hand, the workman was discharging the work and therefore any injuries suffered during the course of employment he would be entitled for compensation, which was rightly appreciated by the Commissioner and an award was passed in favour of the workman, which cannot be interfered with.

8. With the aforesaid reasons, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

09.10.2023

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Speaking Order : Yes/No

5/6



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Index : Yes/No

NCC : Yes/No

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M.DHANDAPANI,J

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To

1. The Commissioner for Workmen's Compensation (DCL – 1) at Chennai
2. The Section Officer, V.R. Section, High Court, Madras.

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