



C.M.A.Nos.1576 and 1577 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.1576 and 1577 of 2010

Logesh Builders

... Appellant in both the C.M.As.

Vs.

1.Amulu

2.Minor.Nivedha

Rep. by mother guardian and next
friend first respondent Amulu

3.Hundai Motor India Ltd.,
Plot No.H-I, Sipcot Industrial Park,
Irungattukottai,
Sriperumputhur Taluk,
Kancheepuram District.

4.National Insurance Company Ltd.,
661, Trunk Road,
Poonamallee,
Chennai – 56.

... Respondents in C.M.A.1576/2010

1.Chandran

2.Hundai Motor India Ltd.,
Plot No.H-I, Sipcot Industrial Park,
Irungattukottai,
Sriperumputhur Taluk,
Kancheepuram District.

3.National Insurance Company Ltd.,
661, Trunk Road, Poonamallee,
Chennai – 56.

... Respondents in C.M.A.1577/2010

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Prayer in C.M.A.No.1576 of 2010:

Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, to set aside the order dated 30.05.2009 passed in W.C.No.14 of 2006 on the file of the Deputy Commissioner for Workmen Compensation DCL – I, Chennai – 600 006 and to pass the award against National Insurance Company as per Ex.R1.

Prayer in C.M.A.No.1577 of 2010:

Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, to set aside the order dated 30.05.2009 passed in W.C.No.15 of 2006 on the file of the Deputy Commissioner for Workmen Compensation DCL – I, Chennai – 600 006 and to pass the award against National Insurance Company as per Ex.R1.

For Appellant : M/s.G.Jai Siva Rama Raj
in both the C.M.As.

For Respondents : Mr.S.Vijayakumar for R1 & R2
Mr.D.Abdullah for R3
M/s.N.B.Surekha for R4
in C.M.A.No.1576 of 2010

Mr.S.Vijayakumar for R1
Mr.D.Abdullah for R2
M/s.N.B.Surekha for R3
in C.M.A.No.1577 of 2010



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COMMON JUDGMENT

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The second respondent before the Motor Accidents Claims Tribunal, is the appellant herein. These appeals have been filed seeking to set aside the order dated 30.05.2009 passed in W.C.Nos.14 and 15 of 2006 respectively, by the Deputy Commissioner for Workmen Compensation DCL – I, Chennai – 600 006 and to pass the award against National Insurance Company as per Ex.R1.

2.The brief facts of the case is that Ramu (deceased in W.C.No.14/2006) and Chandran (injured in W.C.No.15/2006) were working under Hundai Motor India Limited through the appellant. On 08.06.2003 at about 11.00 a.m., they were involved in the construction of rain water drainage and at that time mud slashed on them and they were closed by the mud. Thereafter, they were rescued and were taken to hospital, however, Ramu died and Chandran sustained injuries.

3.Thereafter, the dependants of the deceased Ramu and injured Chandran/ claimants filed claim petitions before the Deputy Commissioner for Workmen Compensation DCL – I, Chennai, claiming compensation of Rs.7 Lakhs and Rs.5 Lakhs respectively.

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4. After adjudication, the Deputy Commissioner for Workmen Compensation DCL – I, Chennai, awarded the following compensation to the claimants/ petitioners therein and aggrieved by the same, the appellant Logesh Builders has filed these appeals.

(i) In W.C.No.14/2006 the Deputy Commissioner for Workmen Compensation fixed a sum of Rs.4,23,137/- + Rs.2,500/- for funeral expenses as compensation and directed the Hyundai Motor India Limited and Logesh Builders/ appellant to jointly deposit a sum of Rs.4,25,637/- before the Court of Deputy Commissioner for Workmen Compensation DCL – I, Chennai, by way of demand draft, within a period of 30 days and also observed that in default of such deposit, simple interest at the rate of 12% from the date of petition till the date of deposit will be recovered.

(ii) In W.C.No.15/2006 the Deputy Commissioner for Workmen Compensation fixed a sum of Rs.1,55,309/- as compensation and directed the Hyundai Motor India Limited and Logesh Builders/ appellant to jointly deposit a sum of Rs.1,55,309/- before the Court of Deputy Commissioner for Workmen Compensation DCL – I, Chennai, by way of demand draft, within a period of 30 days and also observed that in



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default of such deposit, simple interest at the rate of 12% from the date of petition till the date of deposit will be recovered.

5.The learned counsel appearing for the appellant submitted that the appellant insured with National Insurance Company Limited for their employees and the insurance policy has been marked as Ex.R1 before the Deputy Commissioner for Workmen Compensation and the policy is valid from 11.01.2002 to 10.07.2003, however, the Deputy Commissioner for Workmen Compensation refused to fix the liability on the part of the Insurance Company on the ground that normally the policy coverage is for one year and hence the policy is valid from 11.01.2002 to 10.01.2003, however, due to typographical error it has been typed as 10.07.2003. The learned counsel further submitted that it is the duty cast upon the Insurance Company to give prior intimation that the policy expired on 10.01.2003, however, they have not done so. Hence, this Court may direct the Insurance Company to deposit the compensation amount.

6.The learned counsel appearing for the National Insurance Company Limited submitted that though the Insurance Company has



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not given intimation to the appellant about the expiry of the policy period, the fact remains that the insurance policy was issued for a period of one year for the period from 11.01.2002 to 10.01.2003, however, due to typographical error it has been typed as 10.07.2003. The said fact was established before the Deputy Commissioner for Workmen Compensation and hence the Deputy Commissioner for Workmen Compensation did not fix the liability on the part of the Insurance Company and therefore the impugned orders warrants no interference.

7. Heard the arguments advanced on either side and perused the materials available on record.

8. Admittedly, Ramu (deceased in W.C.No.14/2006) and Chandran (injured in W.C.No.15/2006) were working under Hyundai Motor India Limited through the appellant. On 08.06.2003 at about 11.00 a.m., they were involved in the construction of rain water drainage and at that time mud slashed on them and they were closed by the mud. Thereafter, they were rescued and were taken to hospital, however, Ramu died and Chandran sustained injuries. It is



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also equally un-disputed fact that the appellant had insured with the National Insurance Company Limited for their employees and the insurance policy has been marked as Ex.R1 before the Deputy Commissioner for Workmen Compensation.

9.Perusal of Ex.R1 disclose that the policy coverage is from 11.01.2002 to 10.07.2003, however, the Deputy Commissioner for Workmen Compensation refused to fix the liability on the part of the Insurance Company on the ground that normally the policy coverage is for one year and hence the policy is valid from 11.01.2002 to 10.01.2003, however, due to typographical error it has been typed as 10.07.2003.

10.If it is so, it is for the Insurance Company to give rectified policy in favour of the appellant at the relevant point of time. In the present case, the Insurance Company has not taken any steps to re-issue the policy to the appellant and kept silent and after the incident they adduced oral evidence stating that the policy was given for one year and the said fact was not properly appreciated by the Deputy Commissioner for Workmen Compensation. If the mistake was



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rectified at the relevant point of time, the appellant may have renewed the policy immediately after the expiry of the policy. The Insurance Company has not communicated about the typographical error or issued rectified policy to the appellant and hence the liability ought to have been fixed as against the Insurance Company.

11.Since, the rectified insurance policy was not issued to the appellant at the relevant point of time, this Court is of the view that the impugned orders warrant interference. Accordingly, these civil miscellaneous petitions are allowed. The orders dated 30.05.2009 passed in W.C.Nos.14 and 15 of 2006 respectively, by the Deputy Commissioner for Workmen Compensation DCL – I, Chennai – 600 006 are set aside.

12.The National Insurance Company Limited/ fourth respondent and third respondent respectively is directed to deposit the entire compensation amount to the credit of W.C.Nos.14 and 15 of 2006 respectively, before the Deputy Commissioner for Workmen Compensation DCL – I, Chennai – 600 006, within a period of four weeks from the date of receipt of a copy of this judgment, in the same



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terms as awarded by the Deputy Commissioner for Workmen Compensation DCL – I, Chennai, i.e., in default of such deposit, simple interest at the rate of 12% from the date of petition till the date of deposit will be recovered by the Deputy Commissioner for Workmen Compensation.

13.These civil miscellaneous appeals are allowed. No costs.

11.10.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

1.The Deputy Commissioner for Workmen Compensation DCL – I,
Chennai – 600 006.



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M.DHANDAPANI,J.
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