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C.M.A.Nos.237 and 238 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.237 and 238 of 2016

The Divisional Manager,
Oriental Insurance Company Ltd.,
Katpadi Road,
Vellore.

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

Vs.

1.M.Manjula
2.P.Subramani

3.The General Manager,
East Coast Constructions Industries Ltd.,
No.4, Moores Street,
Chennai – 6.

... Respondents in C.M.A.237/2016

1.M.Manjula
2.Minor.Indumathi
3.Minor.Hariprasad
4.Thangavel
5.Chinnapappa

(Minors 2 to 3, rep. by their
Mother Manjula,
the 1st respondent herein)

6.The General Manager,
East Coast Constructions Industries Ltd.,
No.4, Moores Street,
Chennai – 6.

... Respondents in C.M.A.238/2016



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Common Prayer:

Civil Miscellaneous Appeals filed under Section 30 of the Workmen's Compensation Act, to set aside the order dated 02.08.2013 made in W.C.Nos.243 and 249 of 2006 respectively, on the file of Court of Commissioner for Workmen's Compensation – 1 (Deputy Commissioner of Labour – 1), Chennai.

For Appellant : Mr.K.Vinod
in both the C.M.As.

For Respondents : R1 – Died (Steps due)
R2 – No Appearance
Mr.P.J.Rishikesh for R3
in C.M.A.No.237 of 2016

R1 – Died (Steps due)
R2 & R3 – NRN
R4 & R5 – No Appearance
Mr.P.J.Rishikesh for R6
in C.M.A.No.238 of 2016

COMMON JUDGMENT

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 02.08.2013 made in W.C.Nos.243 and 249 of 2006 respectively, on the file of Court of Commissioner for Workmen's Compensation – 1 (Deputy Commissioner of Labour – 1), Chennai.



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2.The brief facts of the case is that on 06.04.2006 at about 10.00 p.m., the deceased S.Mani and T.Manogaran in W.C.Nos.243 and 249 of 2006 respectively, were working as Drilling Worker and Jelly Mixing Machine Mechanic respectively, in Mathalpuram Mahalapallam Dam near Pudu Nagamarimatha and were returning home in the company tractor bearing RegistrationNo.TN-30-Y-4532 from Pudu Naghamarai to Ramakandahalli near Venkilichan Thittu there was a big stone and by mistake, the vehicle went up and capsized, due to which, the deceased died on the spot.

3.Thereafter, the dependants of the deceased / claimants filed claim petitions before the Deputy Commissioner of Labour – 1, Chennai, claiming compensation of Rs.7 Lakhs each.

4.After adjudication, the Court of Commissioner for Workmen's Compensation – 1 (Deputy Commissioner of Labour – 1), Chennai, awarded the following compensation to the claimants/ petitioners therein and aggrieved by the same, the appellant Insurance Company has filed these appeals.

(i)In W.C.No.243/2006 the Deputy Commissioner of Labour – 1



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fixed a sum of Rs.4,52,760/- + Rs.2,500/- for funeral expenses as compensation and directed the appellant to deposit a sum of Rs.4,55,260/- before the Court of Commissioner for Workmen's Compensation – 1 (Deputy Commissioner of Labour – 1), Chennai, by way of demand draft, within a period of 30 days and also observed that in default of such deposit, interest at the rate of 12% will be recovered.

(ii) In W.C.No.249/2006 the Deputy Commissioner of Labour – 1 fixed a sum of Rs.4,19,840/- + Rs.2,500/- for funeral expenses as compensation and directed the appellant to deposit a sum of Rs.4,22,340/- before the Court of Commissioner for Workmen's Compensation – 1 (Deputy Commissioner of Labour – 1), Chennai, by way of demand draft, within a period of 30 days and also observed that in default of such deposit, interest at the rate of 12% will be recovered.

5. The learned counsel appearing for the appellant submitted that the deceased travelled in the Tractor and Trailer against the provisions of the Motor Vehicles Act and further submitted that when they were travelling as gratuitous passenger, they are not entitled to



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claim compensation as against the Insurance Company. The learned counsel further submitted that the learned Commissioner failed to appreciate that the appellant had issued Ex.P4 policy under W.C. Act to cover the risk of injury or death of workmen arising out of and in the course of their employment at the work spot and that such cover did not extend beyond the work spot or workplace.

6.Heard. Perused the materials available on record.

7.The facts in the present case is not in dispute. Admittedly, the deceased travelled in the Tractor owned by the East Coast Constructions Industries Limited and insured with the appellant. The appeals are filed on the ground that the accident did not happen on the work place during the course of employment. The deceased died during the course of employment and that was not disputed by the East Coast Constructions Industries Limited/ employer. When the employer did not dispute the fact that the accident happened during the course of employment, the Insurance Company have no right to question the same, which has necessarily to be questioned only by the employer. Hence, the appeals are mis-conceived and are liable to be dismissed.



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M.DHANDAPANI,J.

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8.The civil miscellaneous appeals are dismissed. The order dated 02.08.2013 made in W.C.Nos.243 and 249 of 2006 respectively, on the file of Court of Commissioner for Workmen's Compensation – 1 (Deputy Commissioner of Labour – 1), Chennai, is confirmed. No costs.

20.12.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The Court of Commissioner for Workmen's Compensation – 1
(Deputy Commissioner of Labour – 1), Chennai.

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