



C.M.A.(MD)No.700 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 27.11.2023

Delivered on: 21.12.2023

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**C.M.A.(MD).No.700 of 2023
and C.M.P.(MD)Nos. 9575 and 14912 of 2023**

The Manager,

Royal Sundaram General Insurance

Company Ltd., ATP Towers,

No.12-A, 5th Floor,

Bye pass Road, Madurai. .. Appellant / 2nd Respondent

Vs.

1.S.Sadique Akmal .. 1st Respondent / Petitioner

2.Mohamed Yusuf .. 2nd Respondent / 1st Respondent

Prayer:- Appeal filed under Section 30 of the Employee's Compensation Act, against the award dated 09.12.2022, received on 09.12.2022, made in E.C.No.8 of 2020, on the file of the Commissioner of Employees Compensation (Deputy Commissioner of Labour), Madurai.

For Appellant : Mr.S.Srinivasa Raghavan

For Respondents : Mr.N.Tamil Mani for R1

: Mr. A.Mohan for R2



C.M.A.(MD)No.700 of 2023

WEB COPY

JUDGMENT

P.B.BALAJI,J.

The Insurance Company, aggrieved by the award, dated 09.12.2022, in E.C.No.8 of 2020, on the file of the Commissioner of Employees Compensation (Deputy Commissioner of Labour), Madurai, is the appellant before us.

2. The first respondent herein as claimant before the Deputy Commissioner of Labour in E.C.No.8 of 2020 sought for compensation of Rs.75,00,000/- for the injuries sustained by him in the accident, dated 26.06.2019.

3. The appellant as respondent in E.C.No.8 of 2020 filed an answer statement denying the claims put forth by the first respondent herein and also called upon the first respondent to prove that he was in employment under the second respondent herein and that the accident arose out of and in the course of employment. The appellant also denied various claims made by the first respondent herein under various heads as



C.M.A.(MD)No.700 of 2023

WEB COPY

being arbitrary and exorbitant, and called upon the first respondent herein to prove each and every averments made in support of such claims.

4. Before the Deputy Commissioner of Labour, the wife of the claimant examined herself as P.W.1 and 18 documents were marked as Ex.P1 to Ex.P18, on the side of the claimant. Disability Certificate issued by the Government Rajaji Medical College and Hospital, Madurai, was marked as Ex.C1. On the side of the second respondent/ appellant herein, one Mr.C.Nagendran, Assistant Manager of the Insurance Company, was examined as R.W.1 and 3 documents were marked as Ex.R1 to R3.

5. After appreciating the oral and documentary evidence adduced by the parties, the Deputy Commissioner of Labour arrived at a finding that the appellant was liable to compensate the claimants to the tune of Rs.26,93,164/-.

6. Aggrieved by the award of the Deputy Commissioner of Labour, the appellant has preferred the present Civil Miscellaneous Appeal, challenging the award of the Deputy Commissioner of Labour on



C.M.A.(MD)No.700 of 2023

the ground that the Commissioner failed to see that there was no employer and employee relationship between the second respondent and the first respondent herein; the appellant was not liable for compensating the first respondent herein; none of the documents produced by the first respondent herein, where proving the employer and employee relationship.

7. The following substantial questions of law were suggested for determination in the present Appeal :

(i) Whether the claim petition under the Workmen Compensation Act and the provisions of Employees Compensation Act is maintainable when there is no proof of Employer and Employee relationship between the injured claimant and the owner of the insured vehicle?

(ii) Whether the findings rendered by the learned Commissioner of Employees Compensation without appreciating the evidence available on record would amount to perverse findings inviting interference and reversal by this Court?

(iii) Whether the claim under the Workmen Compensation Act is maintainable in the absence of any evidence for the accident that took place in the course of employment and in the absence of employer



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C.M.A.(MD)No.700 of 2023

and employee relationship between the injured claimant and the owner of the vehicle?

8. We have heard Mr.S.Srinivasa Raghavan, learned counsel for the appellant, Mr.N.Tamil Mani, learned counsel for the first respondent /claimant and Mr.A.Mohan, learned counsel for the second respondent.

9. The learned counsel for the appellant would fairly submit that the amount awarded by the Deputy Commissioner of Labour was proper and in compliance with the statute. However, the only contentions he put forth was that the first respondent herein did not establish the factum of his being employed under the second respondent as a Driver and that the accident occurred only during the course of such employment.

10. Per contra, the learned counsel for the respondents would submit that the Deputy Commissioner of Labour has examined the said objection of the appellant in detail, before passing the award, and there are absolutely no grounds warranting interference of the award passed by the Deputy Commissioner of Labour.



C.M.A.(MD)No.700 of 2023

WEB COPY

11. We have paid our anxious and careful consideration to the submissions advanced by the learned counsel for the parties. We have also gone through the award of the Deputy Commissioner of Labour, impugned in the present Appeal.

12. The short question that falls for consideration in the present Appeal is only as to whether there existed an employer and employee relationship between the second respondent and the first respondent herein and as to whether the accident that occurred on 26.06.2019, arose in the course of such employment. No doubt, as rightly contended by the learned counsel for the appellant, none of the 18 documents exhibited by the first respondent herein, in any manner went to his rescue in order to establish the relationship of employer and employee between the second respondent and the first respondent herein. However, the Deputy Commissioner of Labour has taken note of the reply statement filed by the second respondent herein, wherein, it has been admitted in clear and uncertain terms that the first respondent herein was employed as a daily waged Driver for a sum of Rs.700/- and that he would be given a minimum of 25



C.M.A.(MD)No.700 of 2023

WEB COPY

days of work in a month. The second respondent herein has also stated that the first respondent herein / claimant has been employed under him for the past 5 years, that is, 5 years preceding the accident and that he possessed a valid Driving Licence also. We also find from the reply before the Deputy Commissioner of Labour that, on the fateful day of the accident, the first respondent herein was driving the vehicle only on instructions from the second respondent herein to pick up the relative of the second respondent herein. The Deputy Commissioner of Labour, has rightly found that in view of such categorical statement made by the second respondent herein before it, no further proof was required to be adduced on the side of the first respondent / claimant to establish employer and employee relationship between the second respondent and the first respondent.

13. We do not find any grounds to interfere with the above findings of the Deputy Commissioner of Labour, which are based on pleadings especially, the reply statement of the second respondent / employer, who has admitted before the Deputy Commissioner of Labour, that the first respondent herein was his employee and on the date of



C.M.A.(MD)No.700 of 2023

WEB COPY

accident, the first respondent was driving the said vehicle and the accident occurred only in the course of such employment.

14. We do not find any of the three substantial questions of law suggested to be probed any further, in view of the categorical assertion of the employer himself before the Deputy Commissioner of Labour. Further, insofar as the quantum, there is no challenge to the same and as fairly conceded by the learned counsel for the appellant, the Appeal has been filed only challenging the finding of the employer and employee relationship, between the respondents herein.

15. In fine, the Civil Miscellaneous Appeal is dismissed and the award dated 09.12.2022, made in E.C.No.8 of 2020, on the file of the Commissioner of Employees Compensation (Deputy Commissioner of Labour), Madurai, is hereby confirmed. There shall be no order as to costs. Consequently, connected miscellaneous petition in C.M.P.(MD)No. 9575 of 2023 is closed.



C.M.A.(MD)No.700 of 2023

WEB COPY

16. After we have heard the counsel on either side and reserved the matter for judgments, the Registry has forwarded C.M.P.(MD)No. 14912 of 2023, to receive documents. However, during the course of the arguments, the learned counsel for the first respondent never brought it to our notice about the said application being laid already. In any event, since the Civil Miscellaneous Appeal itself is being dismissed, the above C.M.P. (MD)No.14912 of 2023 stands closed.

(T.K.R.J.) & (P.B.B.J)
21.12.2023

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C.M.A.(MD)No.700 of 2023

RMT.TEEKAA RAMAN, J.,
and
P.B.BALAJI, J

Ls

To

1.The Commissioner of Employees Compensation
(Deputy Commissioner of Labour),
Madurai.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

judgment in
C.M.A.(MD).No.700 of 2023

21.12.2023