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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.04.2023**

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A(MD)No.324 of 2023
and
C.M.P(MD)No.3967 of 2023

The Management,
Sriram General Insurance Company Limited,
E-888, RIICO Industrial Estate,
Sithapura, Jaipur,
Rajasthan :Appellant/Second respondent

.VS.

1.Thirupathi : Ist Respondent/Petitioner
2.S.Amutha :2nd Respondent/Ist Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section30 of the Employee Compensation Act against the order passed in E.C.No. 216 of 2013, dated 11.09.2018, on the file of the Employees Compensation Commissioner and Deputy Commissioner of Labour Tribunal at Tiruchirappalli insofar as liability to pay the compensation is concerned.

For Appellant :Mr.V.Sakthivel
For Respondents :No appearance
1 and 2



JUDGMENT

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Challenging the award passed by the Workmen Compensation Commissioner to the tune of Rs.7,73,805/- the present Civil Miscellaneous Appeal came to be filed by the appellant/Insurance Company.

2.The brief facts leading to the filing of the present appeal is as follows:

The injured was working as Cleaner in a lorry bearing Registration No.TAE 4055 and on 8.5.2013 at about 12.30 a.m., while the goods were unloaded, the Petitioner was in sleep and at that time, the driver of the lorry reversed the lorry and as a result, the wheels of the lorry run over the the Petitioner and both the legs got fractured and thereafter, he rushed to the hospital and in this regard the crime was registered in Crime No.143 of 2013 before the Thirupatthur Police Station, Sivagangai District against the driver of the lorry and the Petitioner sustained permanent disability. At the time of accident, the Petitioner was earning a sum of Rs.8,000/-p.m. Hence the Petitioner claimed compensation.

3.The defense set up by the appellant Insurance Company is



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to the effect that the cheque issued towards policy is dishonoured and the policy has also been cancelled. Therefore according to the appellant, they are not liable to pay the award amount

4. Before the Tribunal, On the side of the Petitioner/claimant, P.W.1 and P.W.2 was marked and Ex.P1 to Ex.P8 were marked. On the side of the respondent, R.W.1 was marked and Ex.R1 was marked.

5. The Deputy Commissioner of Labour, after analyzing the evidence on record, awarded a sum of Rs.5,73,805/- as compensation and challenging the same, the present appeal is filed.

6. Though a defense was taken by the appellant Insurance Company to the effect that the dishonour of the cheque resulted in the cancellation of the policy, there was no evidence whatsoever produced in this regard before the Deputy Commissioner of Labour. Further, the dishonour of the cheque was not intimated to the owner of the vehicle and no document was filed in this regard. Similarly the dishonour of the cheque was not filed before the Tribunal. That apart, the cancellation of the policy was also not intimated to the owner. Therefore, this Court is of the view that the



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very dishonour of the cheque was not intimated and the same has also not been proved in the manner known to law and merely on the basis of the submission made by the learned counsel for the appellant-Insurance Company, dishonour of the cheque cannot be countenanced. For the reasons stated above, this Court finds no merit in the appeal and the same is liable to be dismissed.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed at the admission stage itself and hence the framing of substantial questions of law does not arise. The learned counsel for the appellant submitted that the award amount has already been deposited before the Tribunal and hence the Petitioner/claimant is permitted to withdraw the same, if not already withdrawn, by filing necessary application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

06.04.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
vsn

To

1.The Commissioner for Workmen Compensation,
(Deputy Commissioner of Labour),
Thiruchirappalli.

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

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N.SATHISH KUMAR.,J.

vsn

JUDGMENT MADE IN
C.M.A(MD)No.324 of 2023
and
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