



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1742 of 2021

1. Murali
2. Revathy
3. Nagarathinam
4. Krishnaveni

.. Appellants

Vs.

1. R.Arasu Mani

2. National Insurance Company Ltd.,
No.751, Anna Salai,
Chennai-2.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 of Employees Compensation Act, against the judgment and decree dated 21.12.2000 made in EC.No.110 of 2016 on the file of the Joint Commissioner of Labour-II, Chennai.

For Appellant : Mr.F.Terry Chella Raja
For Respondents : Mr.J.Micheal Visuvasam R2
R1- Unclaimed – No such person

J U D G M E N T

This appellants/claimants have come forward with this appeal seeking the judgment and decree dated 21.12.2000 made in EC.No.110 of 2016 on



the file of the Joint Commissioner of Labour-II, Chennai by allowing the appeal.

2. Brief facts which are necessary for disposal of this appeal are as follows:-

On 14.05.2004 at about 21.00 hours the deceased Arasumani was driving the lorry bearing No.TN 04 H 8862 which was owned by the first respondent insured with the second respondent, near Irungattukottai, he fell down left side of the road, for which, he sustained injuries and admitted in Government Hospital. Thereafter, he was taken treatment in private hospital from 15.05.2004 to 28.06.2004 and consequently, he died on 28.06.2004. Thereby, the appellants/claimants have filed a claim Petition before the Commissioner for Workmen Compensation Court, Chennai claiming compensation of Rs.20,00,000/- against the owner of the vehicle and its insurer and the same was taken on file in E.C.No.110 of 2016.

3. Before the Joint Commissioner, during trial, in order to prove the case, on the side of the appellants, two witnesses were examined viz., PW1 and PW2 and marked 16 documents viz., Exs.P1 to P16, On the side of the



respondents, no witnesses was examined and no document is marked. The

Joint Commissioner, considering the pleadings, oral and documentary evidence, dismissed the petition as the claimants have not proved the employment with the first respondent. Aggrieved by the said award, the appellants have has filed this appeal before this Court.

4. The learned counsel for the appellants/claimants submitted that the Commissioner erred in not properly considering the evidence of the first appellant, who is PW1 and the cleaner of the lorry, who was examined as PW2 as eyewitness. Further, the Commissioner has not properly considered the Ex.A10 vehicle pass of the deceased which clearly establishes the employment of him and the accident had happened in the course of employment. Without examining oral and documentary evidence, the Commissioner has dismissed the claim petition, which is unsustainable. This Court may quash the judgment by allowing the appeal.

5. The learned counsel for the second respondent submitted that admittedly, the accident had happened in the year 2004. The claim petition has been filed in the year 2016. The delay was more than 10 years after the



alleged occurrence. The appellants have not proved the employer employee relationship and also they have not established that the deceased died during the course of employment. If the said facts are established, the insurance company is liable to pay compensation. In the present case, in order to prove the employment of the deceased, no documents were marked employment of the deceased with the first respondent. After considering all the facts, the Commissioner has dismissed the claim petition, which needs no interference.

6. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

7. According to the claimants, when the deceased Vadivel was driving the lorry on 14.05.2004, it was suddenly fell down left side of the road, in which, the deceased sustained injuries and admitted in hospital and died on 28.06.2004. The claimants filed claim petition in the year 2015 and the same was dismissed. The respondents have rejected the employee employer relationship of the deceased.



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8. On perusal of the claim petition, the claimants have mentioned that the deceased was working under the first respondent for the past 10 years prior to the date of death of the deceased. To prove the employment with the first respondent, the claimants have not produced any documents. Further, the accident had happened in the year 2004 and the claim petition was filed in the year 2015. The delay has not been properly explained by the claimants. Further, they have not produced any medical records, discharge summary, post-mortem report and Accident Register, which itself shows that the claimants have not come to the Court with clean hands and they have established the employment of the deceased also. Hence, the Joint Commissioner has rightly dismissed the claim petition which does not warrant any interference.

9. In the result, the civil miscellaneous appeal is dismissed. The award passed by the Tribunal is confirmed. No costs.

11.12.2024

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M.DHANDAPANI,J.

Rli

To
Joint Commissioner of Labour-II, Chennai.

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