



WEB COPY



C.M.A.No.1752 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**C.M.A.No.1752 of 2020
and C.M.P.No.12857 of 2020**

United India Insurance Company Limited,
5B/11, State Bank of India Upstairs,
Salem Road, Rasipuram-637 408,
Namakkal District.

... Appellant

Vs.

1.Ravi

2.Kaliappan

... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 30 of Workmen Compensation Act, 1923, against the award dated 30.04.2020 made in E.C.No.724 of 2015 on the file of the Employee's Compensation Authority (Deputy Commissioner of Labour, Coonoor).

For Appellant : Mr.C.Paranthaman

For Respondents : Mr.Nalliappan for R1
No appearance for R2



C.M.A.No.1752 of 2020

WEB COPY

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/United India Insurance Company Limited against the award dated 30.04.2020 made in E.C.No.724 of 2015 on the file of the Employees Compensation Authority, Deputy Commissioner of Labour, Coonoor.

2. The first respondent herein was working as driver under the second respondent. While so, on 12.08.2014, while he was driving the lorry bearing Registration No.TN 28 AZ 8175, on Salem to Kallakurichi bye-pass road, the vehicle involved in the accident, as a result of which, the first respondent sustained injuries. He was admitted in the hospital, as in-patient for a month. Claiming compensation of Rs.8,00,000/-, the appellant has filed E.C.No.724 of 2015 before the Deputy Commissioner of Labour, Coonoor. The second respondent took a stand that there was no employer-employee relationship between the first respondent and him and the Appellant/Insurance Company claimed that the first respondent/claimant



C.M.A.No.1752 of 2020

WEB COPY

did not have a hazardous endorsement in his driving license and therefore, there was a violation in the policy condition and hence, the Appellant/ Insurance Company was not liable to pay compensation. The owner of the vehicle/second respondent remained ex-parte. Before the Tribunal, Exs.P1 to Ex.P12 were marked on behalf of the claimant/first respondent and the Insurance Company marked Ex.R1 to Ex.R3. The Tribunal, after hearing the submissions made by both sides, has come to a conclusion that the first respondent was working as driver under the second respondent and though no document was filed to prove the monthly income of the claimant, the Tribunal took into consideration the minimum wages Act and arrived at the monthly income of Rs.8,000/- per month and thereby, granted a compensation of Rs.3,00,263/-. The Tribunal also, relying upon the judgment in the case of ***Mukund Dewagan vs. Oriental Insurance Company Limited*** reported in ***AIR 2017 SC 3668***, wherein it was held that Section 10 of the Act requires a driver to hold a licence with respect to the class of vehicles and not with respect to the type of vehicles, came to a conclusion that the claimant since was holding the heavy vehicle driving



C.M.A.No.1752 of 2020

WEB COPY

license, the contention of the appellant/Insurance Company that Hazardous endorsement was not available in the driving license and they are not liable to be paid the compensation and that there was a violation of the policy conditions, was rejected by the Tribunal.

3. The learned counsel appearing for the appellant/Insurance Company also submitted that the first respondent/claimant did not possess any valid driving license on the date of the accident and he is not having a Hazardous endorsement in the driving license to drive the vehicle with crackers load and relying on these grounds, the learned counsel appearing for the appellant submits that there was a violation of the policy condition and therefore, the owner of the vehicle is liable to pay compensation and not the appellant Insurance Company.

4. The learned counsel appearing for the first respondent submits that the ground raised herein by the appellant/Insurance Company was very much raised before the Tribunal and the Tribunal, after going through the



C.M.A.No.1752 of 2020

facts of the case and the documentary evidence submitted by the claimant as well as the appellant/Insurance Company, has come to a conclusion that the appellant/ Insurance Company was liable to pay compensation as there was no violation in the policy conditions.

5. This Court has carefully considered the submissions made on both sides and perused the materials available on record.

6. Admittedly, the first respondent/claimant was working as driver in the second respondent's lorry and he sustained injuries while he was driving the lorry owned by the second respondent. Exhibits were marked before the Tribunal to prove that the claimant sustained disability of 33% which was confirmed by the Disability Certificate/Ex.P11 issued by the Doctor. The driving license of the claimant was marked as Ex.P9 which shows that it is a heavy vehicle driving license and therefore, relying on the same, the Tribunal has come to a conclusion that Section 10 of the Central Motor Vehicles Act requires a driver to hold a licence with respect to the



C.M.A.No.1752 of 2020

WEB COPY

class of vehicles and not with respect to the type of vehicles. Accordingly, the ground raised by the Insurance Company that there was no hazardous endorsement in the driving license of the vehicle and therefore, there was a violation of the policy conditions, was rejected by the Tribunal. That apart, the Tribunal has taken into consideration the Minimum Wages Act and arrived at a monthly income of Rs.8,000/- for fixing the compensation. The accident occurred in the year 2014 and though no documentary proof was filed before the Tribunal to prove the income, the Tribunal has fixed the monthly income of Rs.8,000/-, which, in the considered view of this Court, is justifiable one. That apart, the claimant has taken treatment as in-patient for a period of one month in the hospital and has submitted the medical bills also before the Tribunal. The Tribunal has considered the materials placed before it and has granted the compensation of Rs.3,02,631/- which is not excessive one. Therefore, the award dated 30.04.2020 passed in E.C.No.724 of 2015 by the Employee's Compensation Authority, Deputy Commissioner of Labour, Coonoor, is hereby confirmed.



C.M.A.No.1752 of 2020

WEB COPY

7. Accordingly, this Civil Miscellaneous Appeal is dismissed.

There shall be no order as to costs. Connected miscellaneous petition is closed.

19.11.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

ssb

To

1.The Employee's Compensation Authority,
(Deputy Commissioner of Labour, Coonoor).

2. The Section Officer,
V.R. Section,
High Court, Chennai.



WEB COPY



C.M.A.No.1752 of 2020

M.DHANDAPANI, J.

ssb

C.M.A.No.1752 of 2020

19.11.2024