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C.M.A.No.2895 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2024

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2895 of 2021

and

C.M.P No.16629 of 2021

Regional Manager
United India Insurance Company Limited
1st Floor, No.104-A
Peramanur Main Road
Salem-7 .

... Appellant

..Vs..

1.Mohamed Salik
2.K.S.Matheswaran

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 of Workmen's Compensation Act, 1923 against the award made in E.C No.56 of 2011 dated 13.01.2021, on the file of the Commissioner for Workmen's Compensation, Deputy Commissioner of Labour, Salem.

For Appellant

: Mr.M.B.Raghavan

For Respondents

: Mr.B.Gopalakrishnan for R1

No Appearance for R2



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J U D G M E N T

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This appeal has been filed by the Insurance Company challenging its liability to pay compensation as per the impugned award passed under the Workmen's Compensation Act.

2. The second respondent has been duly served with the notice in this appeal. His name is also printed in the cause list today. Despite the same, he remained unrepresented in this appeal.

3. According to the appellant/Insurance Company, they are not liable to pay compensation since the Insurance Policy issued by them to the second respondent is not a Workmen Policy and it is a Motor Policy. According to them, since the first respondent/claimant has admitted that he had sustained injuries while riding the motorcycle owned by the second respondent who is his employer, the appellant/Insurance Company is not liable to pay compensation since the Insurance Policy is a Motor Policy and a separate premium has not been paid by the second respondent for paying compensation to its workers, if they sustain injuries as a result of an accident



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caused by any of his vehicles.

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4. Learned counsel for the appellant drew the attention of this Court to the Insurance Company policy which was marked as an exhibit before the Commissioner in the impugned order and would submit that since the subject Insurance Policy is a Motor Policy and the first respondent/applicant is not a third party, the appellant/Insurance Company is not liable to pay compensation as determined by the Commissioner under the impugned order.

5. As seen from the impugned order, the Commissioner has not taken into consideration the contentions of the appellant which were also raised in the counter filed by them before the Commissioner. Instead of appreciating the nature of the insurance coverage as per the Insurance Policy which clearly reveals that the said Insurance Policy is a Motor Policy and it is not a Workmen's Compensation Policy. The subject Insurance Policy does not entitle the first respondent/applicant to claim compensation as claimed in his application before the Commissioner. The Commissioner has erroneously



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directed the appellant/Insurance Company to pay compensation on the ground that since there is an Insurance Policy, the appellant/Insurance Company is liable to pay compensation, though the insurance policy does not give coverage for workmen's compensation. The Commissioner has by total non-application of mind to the subject Insurance policy has erroneously held that the appellant/Insurance Company is liable to pay compensation though they are not legally liable. Instead of passing the award against the second respondent who is the first respondent's employer, the Tribunal has directed the appellant/Insurance Company to pay compensation.

6. For the forgoing reasons, the impugned order against the appellant/Insurance Company has to be set aside by this Court and this appeal will have to be allowed by directing the second respondent to pay the determined compensation as per the impugned order to the first respondent within a period of two months from the date of receipt of a copy of this judgment. Since the appellant/Insurance has already deposited the award amount as per the impugned order before the Commissioner, in view of this appeal being allowed, the Commissioner is directed to permit the



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appellant/Insurance Company to withdraw the deposited amount once an application is filed by the appellant/Insurance Company.

7. Accordingly, this Civil Miscellaneous Appeal is allowed.

Consequently, connected Miscellaneous Petition is closed. No costs.

18.06.2024

Index:Yes/No
Internet:Yes/No
Speaking/Non-speaking order
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To

- 1.The Commissioner for Workmen's Compensation
Deputy Commissioner of Labour, Salem.
- 2.The Section Officer
V.R.Section, High Court of Madras.

ABDUL QUDDHOSE, J.

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and C.M.P No.16629 of 2021**

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