



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1883 of 2021

Royal Sundaram Alliance Insurance Co. Ltd.,
Subramaniam Building, First Floor,
No.1, Club House Road,
Anna Salai, Chennai-2.

.. Appellant

Vs.

1. Paavadai
2. K.Natarajan

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 of the Employees Compensation Act, 1923, to set aside the order dated 09.11.2018 in W.C.No.189 of 2014 on the file of the Commissioner for Employees Compensation, Joint Commissioner of Labour-II, Chennai-6.

For Appellant : Mr.G.Vasudevan
For Respondents : Mr.F.Terry Chella Raja
For M.Velu for R1
R2 – Unclaimed (NRN)

J U D G M E N T

The Insurance company is the appellant herein has filed this appeal seeking to quash the order dated 09.11.2018 in W.C.No.189 of 2014 on the file of the Commissioner for Employees Compensation, Joint Commissioner



of Labour-II, Chennai-6.

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2. It is the case of the claimant that he was employed as a driver under the second respondent. On 11.05.2014 when the first respondent was driving TATA Ace vehicle along with the relatives to worship his family deity at Nerumbur and at that time a car bearing Reg. No.PY 01 BW 4333 driven by its driver in a rash and negligent manner, dashed against the claimant vehicle, due to which, he sustained injuries and fracture in the left leg. He was admitted in the hospital for treatment. Thereafter, he has filed a Claim Petition before the Workmen's Compensation Court against the owner and insurer of the vehicle claiming Rs.20,00,000/- as compensation under various heads.

3. During the trial before the Tribunal, on the side of the claimants, there were two witnesses examined and marked 11 documents viz., Exs.P1 to P11. On the side of the insurance company, two witnesses were examined and one document was marked.

4. The Tribunal, considering the pleadings, oral and documentary



evidence, allowed the petition in part and awarded a sum of Rs.4,34,522/- as compensation to the claimant payable by the insurer. Questioning the quantum and liability, the appellant insurance company has filed this appeal before this Court.

5. The learned counsel for the appellant submitted that the appellant has denied the employment of the first respondent as a driver under the second respondent and there was no employer employee relationship between the respondents 1 and 2, at that time of the accident, since the first respondent was travelling along with his relatives to worship their family deity. Hence, liability fixed on the appellant has to be set aside. The quantum of compensation awarded by the Tribunal is also very meager. Hence, the learned counsel prays that this Court may set aside the award passed by the Tribunal and allow this petition.

6. The learned counsel appearing for the claimant submitted that admittedly the medical board assessed the disability at 50% and the the first respondent was working as a driver under the second respondent. Due to the accident, he could not continue his avocation as earlier. Thereby, after



examining the witnesses and considering the materials, the Tribunal has rightly awarded compensation to the claimants, which does not warrant any interference.

7. Heard the learned counsel for the appellant and the learned counsel for the respondents and perused the materials available on record.

8. On perusal of the award passed by the Commissioner, it is seen that the accident has not been disputed. The medical board assessed the disability at 50% and therefore, he could not continue his avocation as he was a driver. Though the appellant has denied the employee employer relationship, however, no witness was examined including the employer. Therefore, the Tribunal has rightly assessed the issue awarded compensation by applying percentage method and awarded compensation, which needs no interference. In view of the above, this Court do not find any error in the award passed by the Tribunal and there is no merit in the appeal.

9. In the result, the Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is confirmed. The appellant insurance



company is directed to deposit the entire amount awarded by the Tribunal along with interest at 12% and costs, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgment. on such deposit, the claimant is permitted to withdraw the compensation along with interest and costs, by filing necessary applications before the Tribunal. No costs.

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Index : Yes

Speaking Order : Yes

To

Commissioner for Employees Compensation, Joint Commissioner of Labour-II, Chennai-6.



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M.DHANDAPANI,J.

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