



C.M.A.(MD) No.1655 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.1655 of 2010

and

M.P.No.2 of 2010

United India Insurance Company Ltd.,
Represented through its Branch Manager,
Seethalakshmi Complex, 3rd stop,
Thirunagar, Madurai – 6.

... Appellant

Vs.

1.Malar,
2.Jeya (Minor),
3.Ambika (Minor),
(Minor R2 and R3 represented through his
Mother and natural guardian /first respondent)
4.S.Rengasamy,
5.K.Ammavasai.

... Respondents

Prayer: Civil Miscellaneous Appeal filed Section 30 of the Workmen's Compensation Act, 1923 against the order dated 04.05.2005 in W.C.No. 10 of 2004, passed by the Deputy Commissioner, Dindigul.

For Appellant : Mr.J.S.Murali

For Respondents : No appearance



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JUDGMENT

Aggrieved by the finding on liability, the Insurance Company has preferred the instant appeal.

2. The respondent filed a claim petition stating that while the deceased was working as a Loadman under the fifth respondent, the driver of the lorry, in which he was travelling, applied suddenbrake, as a result of which he fell from the vehicle and sustained serious injuries.

3. The appellant filed a counter denying the averments in the claim petition and stated that the employee-employer relationship has not been established and hence, the appellant was not liable to pay the compensation.

4. Before the Commissioner, the claimants examined two witnesses and marked Exs.P1 to P7. The appellant neither examined any witnesses nor marked any documents.



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5. The commissioner, after taking into consideration oral and documentary evidence, held that the appellant was liable to pay compensation of Rs.2,87,844/-, after finding that the deceased was an employee under the fifth respondent herein and the accident took place during the course of employment.

6. The learned counsel for the appellant submitted that the accident took place on 14.01.2003 and the deceased died on 22.09.2003 and the nexus between the accident and the death has not been established by the respondent.

7. On perusal of the records and the award of the Commissioner, it is seen that the employee-employer relationship has been established by the respondents. The finding of the Commissioner holding that the accident took place during the course of employment is not under challenge. The records reveal that due to the accident, the deceased sustained serious injuries in the spinal cord, as a result of which he was unable to move both his legs and the doctor had assessed the disability as 100% and he was taking continuous treatment till the date of his death on 22.09.2003. Based on the nature of injuries and treatment taken by the



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deceased, the Commissioner, on facts, found that the nexus between the accident and the death was established by the claimants. The finding of the Commissioner, which is based on records and is not perverse, cannot be interfered with. In any case, the Commissioner is the final fact finding authority. The appeal does not raise any question of law, much less a substantial question of law so as to warrant interference of the award, the compensation awarded by the Commissioner is liable to be confirmed and hence confirmed.

8. The respondents 1 and 4/claimants are entitled to withdraw the aforesaid amount together with proportionate interest and costs, as per the apportionment fixed by the Commissioner, less the amount already withdrawn, if any, by filing appropriate application before the Commissioner.

9. The respondents 2 and 3 were minors when the claim petition was filed in the year 2004. They would have attained majority now. Hence, they are directed to file appropriate application for recording themselves as major and withdraw their shares.



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10. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

26.09.2024

Index: Yes/ No
NCC: Yes / No
Speaking Order / Non-Speaking Order
apd

To:

1.The Deputy Commissioner, Dindigul.

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



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SUNDER MOHAN, J.

apd

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