



C.M.A.(MD)No.150 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 01.02.2024

CORAM:

THE HON'BLE MR.JUSTICE **P. DHANABAL**

C.M.A.(MD)No.150 of 2013

and

M.P(MD) No.1 of 2013

The Branch Manager
Iffco Tokya General Insurance Company Ltd.,
ITGI- Strategic Business Unit
Chennai
New No.28, 2nd Floor,
North Usman Road,
Chennai- 600017

... Appellant/ Respondent No.2

Vs.

1. Periyasamy(Died)
2. Muniyammal
3. R.Radhakrishnan
- 4.Kumar
- 5.Pappathi
- 6.Sakthivel
7. Jeyalakshmi
8. Rajeswari
9. Kanniyammal
- 10.Selvaraj

...Respondents/Petitioners
.. Respondent/1st Respondent

(Rrs 4 to 10 are brought on record as LR's
of deceased first respondent vide court order
dated 17.11.2019 made in CMP No.2258/2018)

Prayer : This Civil Miscellaneous Appeal filed under Section 30 of the Workmen Compensation Act, against the award dated 28.11.2012 made in W.C.



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WEB COPY No.181 of 2008 on the file of the Commissioner of Workmen Compensation, Dindigul.

For Appellant : Mr.S.Srinivasa Raghavan
For R1 : Mr.M.Sarvagan
For R2& R4 to R10 : Mr.R.Ramadurai
For R3 : No appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed as against the order passed in W.C. No.181 of 2008 on the file of the Commissioner of Workmen Compensation, Dindigul, Wherein the respondents 1 and 2 herein has filed a compensation as against the first respondent and the appellant herein.

2. The Tribunal has awarded a sum of Rs.4,25,649/- towards compensation and directed the appellant/second respondent herein to deposit the amount with 12% interest from the date of petition till the realization of the amount. Aggrieved over the order of the Tribunal, the appellant/second respondent has preferred this Civil Miscellaneous Appeal.

3. For the sake of convenience and brevity, the parties herein after will be referred to as per their status/ranking in the Tribunal.



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4. According to the appellant, respondents 1 and 2 have filed claim petition for the death of the son of the respondents 1 and 2. As per petition averments when the deceased Paraman was working as a loadman in the third respondent/first respondent vehicle bearing Reg. no. TN 57 H 9056 on 29.02.2008 he died due to the accident during the course of employment. Therefore claim petition has been filed by the parents of the deceased. According to the appellant/second respondent the driver of the third respondent/first respondent has no valid license to drive the vehicle on the date of accident and he only had licence to drive Light Motor Vehicle and not holding badge to drive the commercial vehicle on the date of accident. On that ground they preferred this appeal

5. Before the Tribunal, on the side of the petitioners they have examined P.W.1 and P.W.2 and marked exhibits Ex.P.1 to P.5 and on the side of the respondent R.W.1 and R.W.2 were examined and exhibits R.1 to R3 were marked.

6. After hearing both sides and perusing the documents available on record, the Tribunal has awarded a sum of Rs.4,25,649/- and directed the appellant/second respondent herein to deposit the amount with 12% interest.



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7. As against the order passed by the Tribunal, the second respondent/Insurance company has preferred this appeal on various grounds.

8. The learned counsel appearing for the appellant would contend that the third respondent/first respondent was insured with the appellant/second respondent, but the driver has no valid license and no badge endorsement to drive the commercial vehicle, thereby they violated conditions of policy, hence the second respondent/appellant is not liable to pay any compensation.

9. The learned counsel appearing for the respondents 1 and 2 would contend that the first respondent lorry was insured with the second respondent on the date of accident the policy was in force and the driver of the first respondent had license to drive Light Motor Vehicle and thereby the appellant/second respondent is liable to pay the amount to the petitioner.

10. This Court after hearing both sides and upon perusing the documents including the order of the Tribunal the point for determination in this appeal is:

i) whether the appeal is liable to be allowed or not?



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11. In this case, there is no dispute with regard to the relationship between the parties as employer and employee and there is no dispute that the deceased died during the course of employment and also there is no dispute with regard to the quantum of amount awarded by the Tribunal. The only contention of the appellant/second respondent is that the driver of the first respondent had no valid license to drive the vehicle, but on perusal of records they revealed that the driver of the third respondent/first respondent had license to drive Light Motor Vehicle. As per the Judgment of the Hon'ble Apex Court in the case of **Mukund Dewangan .vs. Oriental Insurance Company Ltd** reported in **(2017)14 SCC 663**, the person who has license to drive the Light Motor Vehicle can drive any type of vehicle of Light Motor and there is no difference between the commercial vehicle and own vehicle. Therefore the contention of the appellant that the first respondent driver had no badge to drive the commercial vehicle is not acceptable one. Therefore in view of the above said judgment, the order passed by the Tribunal by holding that the appellant/second respondent is liable to pay the amount is in order and there is no perverse or infirmity found in the order of the Tribunal, Therefore, this Civil Miscellaneous Appeal has no merits and is liable to be dismissed



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12. In the result, this Civil Miscellaneous Petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

01.02.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To:

1. The Commissioner of Workmen Compensation
(Deputy Commissioner of Labour), Madurai
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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P. DHANABAL, J.

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