



C.M.A(MD)No.1672 of 2013

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1672 of 2013

The Branch Manager,
United India Insurance Company Limited,
Seethalakshmi Complex,
Madurai – 625 006.

... Appellant

Vs.

1.Thirugnanampari @ Parivallal
2.R.Rajendran

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 30 of the Workmen's Compensation Act 1923, against the order, dated 15.10.2012, made in W.C.No.76 of 2011, on the file of the Workmen Compensation Deputy Commissioner of Labour, Madurai.

For Appellant : Mr.A.S.Mathialagan
For R1 : Mr.C.M.Mari Chelliah Prabhu
for M/s.Eddy and Emboss

JUDGMENT

The Insurance Company has preferred this Civil Miscellaneous Appeal.

2. It is a case of injury. While unloading the goods, the claimant has suffered injury. The impugned order is passed under Workmen Compensation



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Act.
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3. The contention of the Insurance Company is that the injured was not engaged by the owner of the vehicle for unloading the goods. However, the vehicle is insured with the Insurance Company. The goods belong to one Perumal who has engaged the injured, but the said Perumal was not impleaded as a party. Further submitted that until the goods are sold, the goods belong to seller. Once goods are sold, then the goods belong to the buyer. Since the vehicle is delivering the goods the owner of the vehicle cannot be saddled with the liability. On perusing the policy, it is seen that there is no comprehensive insurance policy covering the owner of the goods who had sold the goods, the owner of the vehicle and the owner of the goods who had purchased it. This Court is of the considered opinion that the owner of the goods who had purchased the goods namely Perumal is also liable to pay compensation. Having held so, this Court is directing the Insurance Company to pay Rs.4,59,796/- with 12% interest. However, shall recover Rs.1,50,000/- from the owner of goods namely Perumal. Thus, the impugned order is modified accordingly.

4. The Appellant Insurance Company is directed to deposit Rs.4,59,796/- with interest at the rate of 12% per annum and costs to the credit of Deputy



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Commissioner of Labour, Madurai, 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 same with accrued interests and costs, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal. The appellant Insurance Company is entitled to recover Rs.1,50,000/- from the owner of the goods namely Perumal.

5. Since the said Perumal is not a party in the Tribunal and also before this Court, the said Perumal is at liberty to adjudicate the issue when the Insurance Company would file the case for recovery of the amount.

6. With the above said modification, the Civil Miscellaneous Appeal is disposed of. No costs.

7. Before parting with the judgment, this Court is inclined to record the lacuna in the policy. If a comprehensive policy is executed, the injured would be covered and the liability would be fixed on all the three persons. Since such a policy was not contemplated by the Insurance Company, this Court is of the considered opinion that hereinafter, if the Insurance Company execute any



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insurance policy from the owner of the vehicle, the policy shall be executed covering liability on all the three owners namely the owner of goods who sell the goods, the owner of the vehicle and the owner of the goods who purchase the goods. So that the liability is fixed on all the concerned persons.

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

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To

1. Workmen Compensation Deputy Commissioner of Labour,
Madurai.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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