



C.M.A.(MD) No.983 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.983 of 2010

and

M.P.(MD) No.1 of 2010

The Manager,
M/s.Royal Sundaram Alliance General
Insurance Company Limited,
T.V.S. Co-operative Store Building,
37, Krishna Rao Tank Street,
Madurai - 625 001.

... Appellant

Vs.

1.Maheswari
W/o.Senthilkumar

2.Minor Arunkumar
S/o.Senthilkumar

3.Minor Sivakumar
S/o.Senthilkumar

4.Shanmugam
S/o.Rengasamy

5.Muthammal
W/o.Shanmugam

[Minor R2 and R3 are represented by their
mother and natural guardian, R1 herein]



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6.Kanagaraj
S/o.Velusamy

... Respondents

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Prayer:- Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, to set aside the award dated 12.04.2010 made in W.C.No.262 of 2007 on the file of the Commissioner for Workmen's Compensation and Deputy Commissioner of Labour, Trichirappalli.

For Appellant : Mr.S.Srinivasa Raghavan

For R1, R4 & R5 : Mr.N.Sudhagar Nagaraj

For R6 : Mr.P.Paranthaman

J U D G M E N T

The instant appeal has been filed, challenging the award of the Commissioner for Workmen's Compensation and Deputy Commissioner of Labour, Trichirappalli, in W.C.No.262 of 2007 dated 12.04.2010, by which the first to fifth respondents/claimants were awarded a compensation of Rs.4,14,000/-.

2. The first to fifth respondents filed a claim petition in W.C.No.262 of 2007 before the Commissioner, stating that the deceased was working as a driver with the sixth respondent, who owned the Tractor bearing



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Registration No.TN-47-R-3888; and that on 08.07.2007, while the deceased was driving the said Tractor, he died due to a heart attack during the course of his employment.

3. The sixth respondent/employer remained *ex parte* before the Commissioner. The appellant, Insurance Company, filed a counter, denying the employee-employer relationship between the deceased and the sixth respondent, and stating that the death was not during the course of employment.

4. Before the Commissioner, the first to fifth respondents/claimants examined the first respondent/first claimant as P.W.1, and marked Exs.P1 to P6. The appellant, Insurance Company, neither examined any witnesses nor marked any documents on their side.

5. The Commissioner, after taking into consideration the oral and documentary evidence, held that the deceased was employed under the sixth respondent, who had a valid insurance policy with the appellant, Insurance Company, and awarded a sum of Rs.4,14,400/- as compensation to the first to fifth respondents/claimants.



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WEB COPY 6. The learned counsel for the appellant, Insurance Company, submitted that although the appellant had filed the counter denying the employer-employee relationship, the first to fifth respondents/claimants have not established the relationship by marking any documents, and therefore, the appellant, Insurance Company, is not liable to pay compensation.

7. The learned counsel for the first to fifth respondents/claimants, per contra, submitted that the first respondent, the wife of the deceased, who was examined as P.W.1, deposed that the deceased was working as a tractor driver owned by the sixth respondent.

8. The instant appeal was admitted on the following substantial question of law:

Whether the stress and strain, which led to the death of the workman, was a result of any casual connection between the cause of death and the employment?



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9. Though the appellant had stated that there is no employee-employer relationship between the deceased and the sixth respondent, the Commissioner believed the evidence of P.W.1 and the other evidence on record to hold that the employee-employer relationship has been proved. The appellant has not let in any contra evidence to disbelieve the evidence of P.W.1 and the averments in the FIR, which reveal that the death occurred during the course of employment.

10. P.W.1 had also stated that the death occurred due to the heart attack, which in turn was due to the stress and strain in the employment, as the deceased had driven the tractor belonging to the sixth respondent continuously for several hours. There is no contra-evidence produced on the side of the appellant on this aspect also. Hence, in the light of the factual finding and the evidence on record, this Court is of the view that the claimants had established that the deceased died due to the stress and strain in the employment. The substantial question of the law is answered accordingly.

11. The first to third respondents/first to third claimants are equally entitled to 75% of the award amount along with the accrued interest



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thereon, and the fourth and fifth respondents/fourth and fifth claimants are equally entitled to 25% of the award amount along with the accrued interest thereon.

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

21.08.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/Non-Speaking Order

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Copy To:

- 1.The Commissioner for Workmen's Compensation
and Deputy Commissioner of Labour,
Trichirappalli,
Tirchirappalli District.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras high Court,
Madurai.



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SUNDER MOHAN, J.

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