



C.M.A.(MD)No.891 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

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and

M.P(MD) No.1 of 2013

The Oriental Insurance Company Limited,
New Delhi – 110 002.

... Appellant/3rd Respondent

-VS-

1. K.Prakash

... 1st respondent/1st Petitioner

2. The Management,
B.S.E.S. Limited (Generation Division)
Dahanu Thenna Wind Power Station,
Agwar Village, Post Box No.28,
Thane District, Maharastra State.

3. M/s. Philips Engineering Services,
Plot No.315, Sector No. 28,
Gandhi Nagar,
Gujarat – 382 008.

... Respondents 1 and 2 /
Respondents 1 and 2

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, against the award made in W.C.No.60 of 2001, dated 26.03.2008, on the file of the Commissioner for Workmen's Compensation, (Deputy Commissioner of Labour) Tirunelveli -2.



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For Appellant : Mr.C.Jawahar Ravindran
For Respondents : Mr.C.Muthuraman – for R3
: No appearance – for R1 and R2

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant as against the order passed in W.C.No.60 of 2001 on the file of the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour) Tirunelveli, wherein, the 1st respondent herein has filed the claim petition before the Tribunal seeking compensation. The Tribunal has awarded a sum of Rs.1,23,762/- (Rupees One Lakh Twenty Three Thousand Seven Hundred and Sixty Two only) and directed the appellant/3rd respondent to pay the said amount along with interest at the rate of 12% p.a within a period of 30 days. As against the order passed by the Tribunal, this appeal has been preferred by the appellant/third respondent.

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



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3. According to the first respondent/petitioner, he was working under the second respondent Contractor and the first respondent is Principal Employer and the second respondent has taken policy for the employees with the third respondent Insurance Company. On 12.02.2001, the first respondent herein during the course of employment sustained injuries and thereby he filed the petition. Since the policy was also in force on the date of accident, the third respondent is liable to pay the compensation to the petitioner.

4. According to the appellant/third respondent, the petition is not maintainable either in law or on facts. The averments made in the petition in respect of the nature of injuries are false. The accident took place due to the negligence on the part of the petitioner. The petitioner is put to strict proof of the relationship as employer and employee. There is no permanent disability to the petitioner. Therefore, the petition is liable to be dismissed.

5. The second respondent/first respondent has filed the counter stating that the occurrence took place in the State of Maharashtra. The accident did not take place out of and in the course of employment and there is no



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permanent disability. On the date of accident i.e., on 12.02.2001 the petitioner was not under the employment of the third respondent/second respondent. Thereby, the petition is liable to be dismissed.

6. According to the third respondent/second respondent, the petitioner has suppressed the material facts and already the second respondent incurred medical expenses for a sum of Rs.1,68,241/- and the same was suppressed by the petitioner. During the treatment period they have also paid 50% of the salary. However, on the date of accident, the second respondent took policy from the third respondent and the same was in force and the appellant/third respondent is liable to pay the compensation to the petitioner.

7. Before the Tribunal, on the side of the petitioner, P.W.1 and P.W.2 were examined and documents Exs.P.1 to P.6 were marked. On the side of the third respondent, R.W.1 was examined and documents Exs.R1 and R.2 were marked and also on the side of the second respondent, document Ex.R.3 was marked.



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8. After evaluating the oral and documentary evidence adduced on either side, the Tribunal has awarded a sum of Rs.1,23,762/- (Rupees One Lakh Twenty Three Thousand Seven Hundred and Sixty Two only) and directed the appellant/3rd respondent to pay the said amount along with interest at the rate of 12% p.a within a period of 30 days. As against the order passed by the Tribunal, the present appeal has been preferred by the Insurance Company/ appellant/third respondent.

9. The learned counsel appearing for the appellant would contend that the relationship between the injured and the employer as employer and employee is not correct and also there is no coverage for Fitter. The petitioner was working as a Fitter and the policy only covered for Electrical Engineer. Therefore, the Tribunal has failed to consider the same and passed the award amount.

10. There is no representation on the side of the respondents 1 and 2.

11. This Court after hearing the learned counsel appearing for the appellant and perusing the documents, including the order of the Tribunal,



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frames the following point for determination in this appeal:

- (i) Whether any substantial question of law is involved in this case?

12. The appellant has preferred the appeal on the ground of liability. The main contention of the appellant is that the policy coverage is not applicable to the petitioner who, is the Fitter, and the policy coverage is only for the Electrical Engineer. Therefore, the Insurance Company is not liable to pay compensation to the petitioner. However, the Tribunal after considering the evidence of R.W.1, who is the employee of the appellant/third respondent, has held that the policy will cover all the employees and awarded a compensation of Rs.1,23,762/- (Rupees One Lakh Twenty Three Thousand Seven Hundred and Sixty Two only) and directed the appellant/3rd respondent to pay the said amount.

13. After arguments, this Court requested the learned counsel for the appellant to produce the General Regulations from the Insurance Company and the learned counsel appearing for the appellant had produced the General Regulations. The relevant paragraph is as follows:



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“All Employees to be included:

(b) When table “A” policy is issued all employees coming within the provision of the W.C. Act 1923 and subsequent amendments by the said Act must be included. In the case of employees in Private employee a policy may be issued covering any class of servants for which separate rates are fixed provided that class are included in the policy.”

14. On a careful perusal of the General Regulations, it is clear that “A” policy is issued to all employees coming within the provision of the W.C. Act 1923 and the subsequent amendments by the said Act must be included. In the case of employees in Private Company a policy may be issued covering any class of servants for which separate rates are fixed provided that class are included in the policy.

15. Therefore, the above said Regulations would show that the policy will cover all the employees. Therefore, as per Regulations and the policy issued by the third respondent, the third respondent is liable to pay the compensation to the petitioner. The R.W.1 also admitted the coverage of policy for all the employees. The Tribunal also after elaborate discussion



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correctly fixed the liability as against the third respondent. Therefore, the order passed by the Tribunal is liable to be confirmed and on a careful perusal of entire records, this Court is of the opinion that there is no substantial question of law involved in this case and thereby the present appeal is liable to be dismissed.

16. In the result, this Civil Miscellaneous Appeal is dismissed and the order passed in W.C.No.60 of 2001, dated 26.03.2008, on the file of the Commissioner for Workmen's Compensation, (Deputy Commissioner of Labour) Tirunelveli -2 is confirmed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

14.03.2024

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

1. The Commissioner for Workmen's Compensation,
(Deputy Commissioner of Labour) Tirunelveli -2.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL,J.

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