



C.M.A(MD)No.295 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.02.2024**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.295 of 2022

V.Gnanasekar

... Appellant

Vs.

1.V.Seenivasaragavan

2.The Branch Manager,

M/s.The Oriental Insurance Company Limited,

Branch Office, Kovilpatti (Post),

Tuticorin District.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 30 of the Workmen Compensation Act, to set aside the order of the Joint Commissioner of Labour, Madurai, in W.C.No.93 of 2017, dated 22.10.2019.

For Appellant : Mr.V.R.G.Mohan

For R1 : No appearance

For R2 : Mr.C.Karthik

JUDGEMENT

This Civil Miscellaneous Appeal is filed against the order passed by the Joint Commissioner of Labour.



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2. The contention of the appellant is that he is the employee of the 1st respondent. According to the appellant, while he was driving the lorry, he was attempting to remove the match boxes but the rope which was tied in the match boxes made him fall from the lorry and he sustained serious injuries. Immediately, he took treatment in Delhi and for further treatment he came back to Coimbatore and he took treatment. He has submitted the original medical bills to the Insurance Company and he has produced the duplicate medical bills before the Joint Commissioner of Labour. The Joint Commissioner of Labour has issued notice to the first respondent. The first respondent who is the owner of the vehicle and employer of the claimant has received the notice but he did not appear before the Joint Commissioner of Labour and the same is recorded by the Joint Commissioner of Labour and has rendered a finding that since the 1st respondent has not appeared and has not refused the contentions of the claimant, the 1st respondent is set ex-parte. Having said so, the Joint Commissioner of Labour ought to have taken that the employer had accepted the contents stated in the affidavit filed by the employee. But the Joint Commissioner of Labour has failed to do so and



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had rendered the finding since the employer is exparte, the version of the employee is not proved, which is perverse finding.

3. Further, in the medical report, it has been stated that the appellant has fallen from height but it has not been stated that he has fallen from the lorry which has to be clarified before the Joint Commissioner of Labour. Therefore, for all these reasons, this Court is of the considered opinion that the order passed by the Joint Commissioner of Labour is erroneous and the case ought to be reheard. Accordingly, the impugned order is set aside and the case is remitted back to the Joint Commissioner of Labour for fresh consideration.

4. It is made clear any observation made in this order shall not be an impediment to consider the matter afresh. The Joint Commissioner of Labour shall issue notice to the employer. If need be, the appellant shall take proper steps to make the employer appear before the Joint Commissioner of Labour and the claimant is also at liberty produce the Co-Driver before the Labour Commissioner and he can contest the case



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before the Joint Commissioner of Labour. The 2nd respondent is also at liberty to raise any plea before the Joint Commissioner of Labour. Hence, the order passed by the Joint Commissioner of Labour is set aside and the matter is remitted back to the Joint Commissioner of Labour. The parties are at liberty to mark any evidence before the Joint Commissioner of Labour. The Joint Commissioner of Labour is directed to complete the proceedings within a period of four months from the date of receipt of a copy of this judgment. Hence, the Civil Miscellaneous Appeal is allowed. No costs.

02.02.2024

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

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1. Joint 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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