



C.M.A(MD)No.1098 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1098 of 2014

and

M.P.(MD).No.2 of 2014

The Branch Manager,
United India Insurance Company Limited,
401, Periyakulam Road,
Theni District-625 531.

... Appellant

Vs.

1.V.Easwaran
2.N.Pandiyan

...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 30 of the Employee's Compensation Act, 1923, against the order dated 30.10.2013, passed in W.C.No.265 of 2007 by the Learned Workmen Compensation Commissioner's Tribunal / Deputy Commissioner, Dindigul.

For Appellant : Mr.N.Dilip Kumar

For Respondents : No appearance

JUDGMENT

The Insurance Company has preferred this Civil Miscellaneous Appeal.

2. It is a case of injury. The learned Counsel appearing for the Insurance



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Company submitted that the liability cannot be fixed on the Insurance Company at all, since the vehicle involved in the accident was a “load auto” and about six persons along with the Driver had travelled in the “load auto”. Even according to the claimant, about six persons had travelled in the “load auto” in order to pluck the mangoes. Further these persons cannot be considered as “load men”. Therefore, this Court is accepting the contention of the Insurance Company. Further, there is no evidence that the injured Easwaran was employed under the second respondent herein / owner.

3. Therefore, this Court is of the considered opinion that the second respondent herein / owner is liable to pay the compensation. Even pay and recovery cannot be ordered, since there is clear violation of the conditions, since excess passengers had travelled and also there is no employer employee relationship. However, the injured is entitled to claim the compensation awarded by the Commissioner of Workmen Compensation from the owner of the vehicle namely the second respondent herein. The Insurance Company is permitted to withdraw the deposited amount, if any.



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4. Therefore, the second respondent herein / owner is directed to deposit Rs. 1,08,282/- (Rupees One Lakh Eight Thousand Two Hundred and Eighty Two only) to the credit of the Tribunal within a period of eight weeks from the date of receipt of a copy of this judgment. If the second respondent herein / owner failed to deposit the amount within the above said time period, the second respondent herein should deposit the compensation amount with 12% interest per annum from the date of accident till the date of deposit. On such deposit, the claimant is permitted to withdraw the same, by filing appropriate application before the Tribunal.

5. A copy of the present judgment shall be marked to the second respondent for complying with the same.

6. With the above said directions, the Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

26.04.2024

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

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1. Workmen Compensation Commissioner's Tribunal /
Deputy Commissioner, Dindigul.
2. N.Pandiyan,
S/o.Muthumanickam,
26, Main Road, Ayyanarpuram,
Chinnamanur Post,
Uthamapalayam Taluk, Theni District.
3. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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