



C.M.A(MD)No.43 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 29.01.2024

CORAM:

THE HON'BLE MR.JUSTICE **P. DHANABAL**

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The Branch Manager,
Royal Sundaram Alliance Insurance
Company Limited,
Sundaram Towers,
No.45 & 46, Whites Road,
Chennai-14.

... Appellant/2nd Respondent

Vs.

1.N.Jothiammal

... 1st Respondent/Petitioner

2.M.Duraikannu

... 2nd Respondent/1st Respondent

Prayer : This Civil Miscellaneous Appeal filed under Section 30(1) of Workmen's Compensation Act VIII of 1923, to set aside the order, dated 10.10.2013 and received on 11.11.2013 made in W.C.No.293 of 2010 on the file of the Commissioner for Employee's Compensation (Deputy Commissioner of Labour), Trichy.

For Appellant : Mr.M.Jerin Mathew

For R-1 : Mr.I.Vel Pradeep
R-2 : Died



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JUDGMENT

The present Civil Miscellaneous Appeal has been filed as against the order passed in W.C.No.293 of 2010 on the file of the Commissioner for Employee's Compensation (Deputy Commissioner of Labour), Trichy, wherein the first respondent herein has filed a petition for compensation as against the appellant and second respondent herein.

2. The Tribunal has awarded a sum of Rs.4,10,200/- towards compensation. As against the award passed by the Tribunal, the present Civil Miscellaneous Appeal has been filed by the second respondent / Insurance Company.

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

4. According to the appellant, the deceased was not died during the course of employment and there is no relationship between the first respondent and the second respondent as employer and employee. In order to prove the relationship between the employer and employee, the



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petitioner did not examine any witnesses. But the Tribunal without considering the same erroneously have passed an award for a sum of Rs.4,10,200/-.

5. According to the first respondent, the deceased died during the course of employment and the deceased was employed under the second respondent / first respondent. In order to prove the case of the petitioner, the petitioner has examined P.W.1 and marked as Exhibits P.1 to P.10 and on the side of the respondents they have not examined any witnesses and Exhibit R.1 was marked. According to the petitioner's evidence, the deceased was employed under the second respondent / first respondent and thereby, the Tribunal has correctly awarded a compensation for a sum of Rs.4,10,200/-. To rebut the petitioner's side evidence, the appellant / second respondent has not filed any evidence. Thereby the Tribunal has correctly awarded the above said amount.

6. This Court has heard both sides and after hearing both sides and upon perusing the documents including the order of the Tribunal, the point for determination in this appeal is:



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i) Whether the appeal is liable to be allowed or not?

7. In this case, there is no dispute with regard to the quantum of the amount. The first respondent / petitioner has not disputed the quantum of the award amount and there is no appeal filed by the first respondent / claimant. The appellant / second respondent has preferred this appeal only on the ground of liability that the deceased was not employed under the second respondent / first respondent. But in order to prove the case of the first respondent / petitioner they examined the witnesses P.W.1 and marked Exhibits P.1 to P.10. As per the evidence of P.W.1, the deceased was employed under the second respondent / first respondent. In order to rebut the petitioner's side evidence, the appellant / second respondent have not adduced any contra evidence. In the absence of any contra evidence, the evidence of first respondent / petitioner are reliable and acceptable. The Tribunal also after taking into consideration of evidences adduced on either side correctly came to a conclusion that the deceased was employed under the first respondent. There is no contravention that the second respondent / first respondent vehicle was insured with the appellant / second respondent. Since the deceased was under the employment of



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second respondent / first respondent and the vehicle of the second respondent / first respondent are insured with the appellant / second respondent, the appellant / second respondent is liable to pay the compensation to the first respondent / petitioner.

8. The Tribunal after analyzing all the evidences passed a reasoned order. Therefore, there is no any perverse or infirmity in the order passed by the Tribunal and no warrant of interference. Therefore, as stated supra, this Court is of the opinion that this Civil Miscellaneous Appeal has no merits and deserves to be dismissed.

9. In the result, this Civil Miscellaneous Appeal stands dismissed and the order passed by the Tribunal in W.C.No.293 of 2010 on the file of the Commissioner for Employee's Compensation (Deputy Commissioner of Labour), Trichy is confirmed. The Appellant / Insurance Company is hereby directed to deposit the compensation as awarded by the Tribunal along with interest within a period of two months from the date of this judgment, if already not deposited. There shall be no order as to costs.



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

To

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



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P. DHANABAL, J.

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