



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.653 of 2014

and

M.P(MD)No.2 of 2014

J.Robert,
Proprietor,
MPJ Tiles and Marbles,
Vadasery, Nagercoil.

... Appellant

Vs.

1.Alagammal
2.Ambika
3.Chandralekha
4.Vijayakumar
5.Kumar
6.Vijaya
7.K.Sundaramoorthy
8.M.Veluchamy
9.The National Insurance Company Limited,
Mettur Dam,
Salem District.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 30 of the Workmen Compensation Act VIII/23, to set aside the order dated 31.10.2012



passed in W.C.No.59 of 2005 on the file of the Commissioner of Workmen Compensation and Deputy Commissioner of Labour, Tirunelveli.

For Appellant	: Mr.R.J.Karthick
For R-1	: Died
For R-2, R-3, R-5 & R-6	: Mr.K.Vamanan
For R-7	: Mr.K.Pragadesh Ganapathy
For R-4 & R-8	: No Appearance
For R-9	: Mr.A.S.Mathialagan

JUDGEMENT

The employer has preferred this Civil Miscellaneous Appeal to set aside the order dated 31.10.2012 passed in W.C.No.59 of 2005 on the file of the Commissioner of Workmen Compensation and Deputy Commissioner of Labour, Tirunelveli.

2. The 3rd respondent in the W.C.No.59 of 2005 is the appellant herein. For the sake of convenience, the parties are referred as per the ranking in the WC petition.

3. The contention of the 3rd respondent / employer is that the deceased was working as causal labour with the 8th respondent and the 8th respondent is the owner of the vehicle. The purchaser of marbles had engaged



the lorry and the lorry had engaged the deceased (casual labour) to load and unload the marbles. The accident had occurred when the deceased had loaded the marble stones on behalf of the vehicle, hence the owner of the lorry is liable to pay the compensation. The loading and unloading forms an integral part of the transport activity and admittedly the vehicle is a goods vehicle. Further the lorry is insured with the insurance company. Even though the deceased is an employee of the appellant, on the day of accident he was engaged as casual labour by the 8th respondent and hence the owner of the lorry are liable to pay compensation.

4. However, the Commissioner of the WC / Deputy Commissioner of Labour had relied on the insurance policy taken by the appellant for all his employees and the deceased name is shown as one of the workmen with the appellant. Infact the appellant had paid Rs.50,000/- as compensation to the deceased family through the said policy and based on this evidence the authority had come to the conclusion that the deceased in the employee of the appellant and the appellant alone is liable to pay the compensation.

5. In the present case, the appellant had taken insurance for his employees, wherein the deceased's name was shown as the appellant employee.



After the accident that appellant had paid compensation. Therefore, this Court is of the considered opinion that the appellant is liable for paying the compensation.

6. Further the product of the appellant was purchased by the consumers, who had used the lorry for transporting the product and the loading and unloading forms an integral part of the transport activity. Therefore, this Court is of the considered opinion, even though, the deceased is an employee under the appellant, the deceased was utilised by the lorry owner as casual labourer. Therefore, the lorry owner is also liable to pay compensation. Since the lorry was insured with the Insurance Company is also liable to pay compensation. Hence the liability is fixed on both the appellant and the owner of the lorry as fifty percent each.

7. The authority had awarded Rs. 3,55,212/- as compensation. The Insurance company is directed to deposit 50% of the compensation i.e. Rs.1,77,606/- 7.5% interest along with costs. The appellant is directed to deposit 50% of the compensation i.e. Rs.1,77,606/- with 7.5% interest along with costs. The aforesaid amount shall be deposited within a period of 8 weeks from the date of receipt of a copy of the order. Since the appellant has already



deposited the entire compensation of amount, he is permitted to withdraw the excess amount, as per Law. On such payment, the claimants are permitted to withdraw their share as per the apportionment fixed by the Tribunal. No Costs. Consequently, connected miscellaneous petition is closed.

31.07.2024

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

To

1. The Commissioner of Workmen Compensation
and Deputy Commissioner of Labour, Tirunelveli.
2. The National Insurance Company Limited,
Mettur Dam, Salem District.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

KSA

Order made in
C.M.A(MD)No.653 of 2014

31.07.2024