



C.M.A.(MD) No.1270 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.1270 of 2023

1.A.Balachandran
S/o.Ayyankalai

2.B.Lakshmi
W/o.A.Balachandran

... Appellants

Vs.

1.B.Moovendran
S/o.Boss

2.Branch Manager,
New India Assurance Company Ltd.,
Rosari Church Building,
2nd Floor, No.61,
Town Hall Road,
Madurai - 625 001.

... Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 30 of the Employee's Compensation Act, 1923 to call for the records relating to the impugned order dated 15.05.2023 made in E.C.No.81 of 2022 on the file of the Commissioner for Employee's Compensation/Joint Commissioner of Labour, Madurai, to set aside the same and consequently to direct the second respondent to pay a compensation for a sum of Rs.15,00,000/- with interest and cost.



C.M.A.(MD) No.1270 of 2023

For Appellants : Mr.V.Sasikumar

For R1 : No appearance

For R2 : Mr.V.Sakthivel

J U D G M E N T

The instant appeal challenges the dismissal of the claim petition filed by the appellants before the Commissioner.

2. The appellants filed a claim petition before the Commissioner, stating that the deceased was working as a driver under the first respondent, and that on 21.02.2022, at about 4:45 p.m., while the deceased was driving a car bearing registration No.TN-84-Z-1111, which belonged to the first respondent, another car bearing registration No.TN-60-AJ-3454 came from the opposite direction in a rash and negligent manner and collided with the car driven by the deceased, after which a tempo traveller bearing registration No.KL-32-G-5341, which was coming behind the car bearing registration No.TN-60-AJ-3454, also collided with the car driven by the deceased, as a result of which the deceased sustained fatal injuries.



C.M.A.(MD) No.1270 of 2023

3. The first respondent remained *ex parte* before the Commissioner.

The second respondent filed a counter, stating that the claimants have not established the employee-employer relationship and that the deceased was in an inebriated condition at the time of the accident, and hence, they are not liable to pay compensation.

4. Before the Commissioner, the appellants examined one witness as P.W.1 and marked Exs.P1 to P13, and the second respondent examined two witnesses as R.W.1 and R.W.2 and marked Exs.R1 and R2.

5. The Commissioner, after taking into consideration the oral and documentary evidence, held that the claimants have not established the employee-employer relationship between the deceased and the first respondent herein and dismissed the claim petition.

6. A perusal of the records reveals that the claimants have produced the FIR lodged at the time of the accident, and even in the FIR, they have not mentioned the relationship between the deceased and the first respondent. No document was produced to establish the relationship. The only witness, P.W.1, examined on behalf of the claimants, does not inspire



C.M.A.(MD) No.1270 of 2023

confidence to hold that the deceased was employed by the first respondent. Therefore, this Court is of the view that the factual finding rendered by the Commissioner cannot be faulted.

7. Though it is the case of the appellants/claimants that two other vehicles, namely, the car bearing registration No.TN-60-AJ-3454, and the tempo traveller bearing registration No.KL-32-G-5341 were involved, besides the car bearing registration No.TN-84-Z-1111 driven by the deceased, they have not proceeded against the owners or the drivers of the said vehicles. Therefore, it is open to them to seek appropriate remedy against the owners of those vehicles for compensation, subject to their establishing negligence on the part of those vehicles.

8. In the result, this Civil Miscellaneous Appeal is dismissed. No costs.

03.10.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/Non-Speaking Order

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C.M.A.(MD) No.1270 of 2023

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- 1.The Commissioner for Employee's Compensation
[Joint Commissioner of Labour],
Madurai, Madurai District.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD) No.1270 of 2023

SUNDER MOHAN, J.

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C.M.A.(MD) No.1270 of 2023

03.10.2024