



CMA.(MD)No.1243 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 22/07/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

CMA(MD)No.1243 of 2023

and

CMP(MD)Nos.16397 of 2023 & 1973 of 2024

Divisional Manager,
M/s.The Oriental Insurance Company Limited,
No.1, Loyola Building,
First Floor,
Salai Road, Dindigul. : Appellant/2nd Respondent

Vs.

1.Saravanan (Died)
2.Thirumathi Manjula
3.Shalini
4.Sharmili
5.Tmt.Arumugammal : Respondents 1 to 5/
(3 and 4 are represented by Petitioners 1 to 5
Natural Guardian and Mother
Tmt.Manjula)
6.N.P.Enterprises Private Limited,
T.R.C.C-206-261 S.G.Methu Road,
Chamrapet, Bangalore-18,
Karnataka State : 6th Respondent/2nd Respondent

PRAYER:-Civil Miscellaneous Appeal is filed under Section 30 of the Employees Compensation Act, 1923, to set aside the order, dated 01/08/2023 in EC No.56 of 2018 passed by the Joint Commissioner for Employees Compensation, Madurai.



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For Appellant : Mr.E.Chandrasekaran
For 1st Respondent : Died
For R2 to R5 : Mr.J.Gunaseelan Muthiah
For 6th Respondent : Dispensed with

JUDGMENT

This Appeal is filed seeking to set aside the order, dated 01/08/2023 in EC No.56 of 2018 passed by the Joint Commissioner for Employees Compensation, Madurai.

2.The facts in brief:-

On 16/10/2017 at about 04.00 pm, the deceased Saravanan was driving the vehicle bearing registration No.KA-51-D-8131 from Odessa State to Hosur after unloading TVK Bikes. When he was nearing Sakshi Paper Office, Nellor on NH-16, a buffalo came across the vehicle. In that process, he lost control and dashed against a Lorry going in front his vehicle. He sustained grievous injuries all over the body. He was taken to a nearby Government Hospital for first aid. Later he was shifted to Vikram Hospital, Madurai on 17/10/2017 and discharged on the same day itself. Thereafter, he took treatment from 20/10/2017 to 29/10/2017 in Meenakshi Mission Hospital, Madurai.



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3.A case in Crime No.412 of 2017 was registered by the Nellore Rural Police Station against the petitioner for the offences under sections 279 and 337 IPC. He was aged about 49 years at the time of the occurrence and he was Driver by profession and getting Rs.20,000/- and batta of Rs.100/- per day. Seeking compensation of Rs.19,64,700/-, the claim petition was filed before the Deputy Commissioner of Labour, Madurai.

4.That was resisted by the 6th respondent herein stating that there was no relationship between the deceased Saravanan and himself as an employee and employer.

5.The Appellant Insurance Company remained ex-parte before the Tribunal.

6.Pending the claim petition, the claimant namely Sarvanan reported to be dead. So, his legal heirs were brought on record.

7.Before the Tribunal, on the side of the claimants, 2 witnesses were examined and 23 documents were marked. On the side of the 2nd respondent in the main petition, no oral and documentary evidence was adduced. Apart from that, 2 documents were marked as Exs.C1 and C2.



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8.At the conclusion of the enquiry process, the Commissioner recorded a finding that the deceased was working as Driver under the 1st respondent in the main petition and the fatal accident occurred during the course employment and awarded a compensation of Rs.7,90,072/- by directing the appellant Insurance Company to pay the compensation amount to the claimants together with interest.

9.Against which, this appeal is preferred by the appellant Insurance Company.

10.Heard both sides.

11.Perusal of the records shows that the deceased Saravanan was under continuous treatment, but no medical document was produced before the Tribunal connecting the death to the injuries. None was examined from the hospital, where the deceased underwent treatment. In the absence of any proper medical evidence on record, it may not be proper on the part of this court to record any finding on that aspect.

12.On that sole ground, the matter is remitted back to the Tribunal by granting liberty to both parties to



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adduce evidence both oral and documentary in this regard.

Let the entire process be completed within a period of three months from the date of receipt of the records by set-aside the award.

13. With the above said direction and liberty, this Civil Miscellaneous Appeal stands **disposed of**. No costs. Consequently, connected Miscellaneous petitions are closed.

22/07/2024

Index: Yes/No
Internet: Yes/No
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To,

1. The Joint Commissioner for Employees Compensation, Madurai.
2. The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

er

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