

(2004) 08 MAD CK 0002

In the Madras High Court

Case No : C.M.A. (NPD-B) No. 3226 of 2003

National Insurance Co. Ltd.

APPELLANT

Vs

V. Prabhu Das and Another

RESPONDENT

Date of Decision : 23-08-2004

Acts Referred:

Citation : (2005) ACJ 409

Hon'ble Judges : N. Kannadasan, J;K. Govindarajan, J

Bench : Division Bench

Advocate : R. Sivakumar, for the Appellant; M. Sathyanarayanan, for V. Parivallal, for the Respondent

Final Decision : Allowed

Judgement

K. Govindarajan, J.—The insurance company has filed the above appeal questioning the order passed by the Deputy Commissioner of

Labour-I directing the insurance company to pay the compensation jointly and severally with the respondent No. 2. No dispute is raised with

regard to the quantum fixed by the learned Deputy Commissioner.

2. At the time of admission of appeal the following substantial questions of law have been framed:

(1) Whether learned Deputy Commissioner is correct in awarding compensation of Rs. 1,91,424 under Workmen's Compensation Act and

directed the appellant to pay the compensation amount when the appellant have not issued policy (Exh. A-I) covering Workmen's Compensation

Act?

(2) Whether the learned Deputy Commissioner is correct in not taking into consideration that appellant had issued only Group Personal Accident

Policy, covering the employees of respondent No. 2 herein?

(3) Whether the learned Deputy Commissioner is correct when the appellant has settled the claim at Rs. 94,250 under the Group Insurance Policy, awarding compensation of Rs. 1,91,424 under the Workmen's Compensation Act ?}

3. The above substantial questions of law are modified as follows:

Whether the Deputy Commissioner of Labour is correct in fixing the liability on the insurance company to pay the compensation, though the policy does not cover the claim under the provisions of Workmen's Compensation Act ?

4. The learned counsel appearing for the appellant submitted that the respondent No. 2 took a Labour Group Personal Accident Policy for its

employees. On the basis of the said policy, a sum of Rs. 94,250 was paid to the respondent No. 1. Since the said policy does not cover any claim

under the Workmen's Compensation Act, the appellant is not liable to pay any compensation more and above the amount already paid.

From the evidence available on record, we are able to see that the said policy does not cover any claim under the provisions of Workmen's

Compensation Act. According to the said policy, the amount has already been paid to the owner of the vehicle. The learned Deputy

Commissioner, without even appreciating the scope of the said policy, has found that the insurance company is liable to pay the amount fixed by

the insurance company in view of Exh. R-I. The learned Deputy Commissioner of Labour has not even admitted the defence taken by them in the

counter and also the evidence adduced on its side. Hence, the liability fixed on the insurance company by the Deputy Commissioner of Labour

alone is set aside and the claimant can recover the amount from the respondent No. 2.

5. With the above modification, the appeal is allowed. No costs.