

ITEM NO.33

COURT NO.6

SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL)..... Diary No. 13221/2021

(Arising out of impugned final judgment and order dated 08-02-2021 in CMA No. 3005/2017 passed by the High Court Of Judicature At Madras)

N.M. SENTHIL KUMAR**Petitioner(s)****VERSUS****THE DIVISIONAL MANAGER****M/S NEW INDIA ASSURANCE COMPANY LIMITED & ORS.****Respondent(s)**

(FOR ADMISSION and I.R. and IA No.83573/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.83574/2024-EXEMPTION FROM FILING O.T. and IA No.83572/2024-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

Date : 22-04-2024 This petition was called on for hearing today.

CORAM :**HON'BLE MR. JUSTICE HRISHIKESH ROY****HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA**

For Petitioner(s) Mr. G.Sivabalamurugan, AOR
 Mr. Selvaraj Mahendran, Adv.
 Mr. C.adhikesavan, Adv.
 Mr. P.v.harikrishnan, Adv.
 Mr. Sunil Singh Rawat, Adv.
 Mr. Kartik Sandal, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Delay Condoned.

2. When this case was last listed on 15.04.2024,
the following order was passed:-

1. Heard Mr. G. Sivabalamurugan,
 learned counsel appearing for the
 petitioner, who is the owner of the
 Lorry involved in the accident. The

accident resulted in fatal injuries to one Kuppuswamy Kunnangalpudur, who was employed as a cleaner in the Lorry.

2. The widow of the deceased applied for compensation and under the order dated 07.08.2017, the Workmen's Compensation Commissioner/Deputy Commissioner of Labour, Nilgiris quantified the compensation payable to the widow of the deceased and ordered M/s. New India Assurance Company Ltd. to pay the compensation. Further direction was issued to deposit the quantified sum.

3. The above order was challenged by the Insurance Company in appeal and under the impugned judgment dated 08.02.2021, the High Court set aside the Award and shifted the liability to pay the compensation on the Lorry owner.

4. The counsel for the petitioner would refer to the Policy (Annexure P/1) to point out that the policy also covered those persons employed for loading, unloading operations for the Lorry. He would then refer to the judgment in Mangilal Vishnoi v. National Insurance Company Limited & Ors. reported in (2022) 11 SCC 758 to argue that the insurance policy would cover the Lorry cleaner and in that event, the insurance company should be held liable to pay the compensation, to the claimant.

5. At this stage, we are concerned with whether the payable sum is remitted to the claimant in pursuant to the order passed on 07.08.2017. To receive instruction on this, Mr. G. Sivabalamurugan, learned counsel prays

for time to obtain instructions.

6. List on 22.04.2024."

3. Since then, learned counsel for the petitioner on instruction submits that the lorry owner had tendered a Demand Draft of Rs. 11,65,308/- (Rupees Eleven Lakh Sixty Five Thousand Three Hundred and Eight) as compensation to the claimant (respondent No.2, herein) before the Joint Commissioner of Labour, Erode in the W.C.(E.C.) No. 433 of 2015. Accordingly, Mr. G. Sivabalamurugan, learned counsel submits that since the interest of the claimant is protected by making the payment, the lis will be confined only between the lorry owner and the Insurance company. In the event, the petitioner succeeds, the Insurance Company will have to make good the amount paid over by the lorry owner to the claimants.

4. Issue notice to the respondent No.1. At this stage, notice need not be issued to the remaining respondents (claimants).

(SNEHA DAS)
SENIOR PERSONAL ASSISTANT

(KAMLESH RAWAT)
ASSISTANT REGISTRAR