

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. NO.2517 OF 2015
& M.P.NO.1 OF 2015

M.Subramaniam

.. Appellant

Versus

1.The Deputy Commissioner of Labour,
Coimbatore.

2.D.Aruna Devi

3.D.Nirmal Kumar

4.D.Narmada

5.Qubart

.. Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 30 of Workmen Compensation Act, against the order dated 31.08.2015 passed in E.C.No.42 of 2013 on the file of the Deputy Commissioner of Labour, Coimbatore.

For Appellant : Mr.S.Kumaresan

J U D G M E N T

This Civil Miscellaneous Appeal is directed against the impugned order passed by the Deputy Commissioner of Labour, Coimbatore, by which, a finding has been given that the second respondent's husband Dhandapani, aged about 42 years, died on 08.01.2013, while he was doing construction work of the first respondent.

2.Considering the daily wages of the deceased Dhandapani at Rs.600/-along with Dearness Allowance at Rs.89.52, finally fixing the monthly income at Rs.6,901/-, rightly came to the conclusion that the claimants are entitled to get a sum of Rs.5,04,463/-. The said order has been put under challenge on the ground that the first respondent has committed serious error in concluding that the deceased Dhandapani and the appellant are not having the employer and employee relationship.

3.This Court is not able to see any merits in the appeal for the following reasons, firstly, the deceased Dhandapani was employed as one of the workers under the appellant /

K.Subramaniam and doing the construction work of the first respondent. Only on the instruction given by the second respondent / the claimant's husband Dhandapani and Murugasamy lifted the mud and bricks to the upper floor through the crane. Without making any safety measures both Dhandapani and Murugasamy loaded the mud and bricks into crane and went to the upstairs to switch on the crane. At that point of time, the crane pipe slanted down, as a result, the deceased Dhandapani suffered grievous injuries in his back bone, left and right inter costal region and thereafter, he was taken to K.G.M. Hospital for giving first aid and thereafter, he was admitted in the C.M.C. Hospital for further treatment. Unfortunately, he died on 08.01.2003. These facts have been properly considered by the first respondent / the Deputy Commissioner of Labour, Coimbatore.

4. Therefore, when the facts have been rightly considered by the Deputy Commissioner of Labour, Coimbatore, a sum of Rs.5,04,463/- has been fixed as total compensation. Therefore, this Court is not able to see any infirmity in the impugned order and also finding that there is no merit in the appeal, the same fails and is dismissed. However, there is no order as to costs. Consequently, connected M.P.No.1 of 2015 is closed.

5. The learned counsel for the appellant fairly submitted that the entire compensation amount awarded has been deposited before the first respondent. Therefore, it is open to the claimants to move an application to withdraw the same.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

sri

To
The Deputy Commissioner of Labour,
Coimbatore.
+1 cc to Mr.S.Kumaresan Advocate sr.60837/15

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