

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2015

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.4216 of 2015 &

M.P.No. 1 of 2015

Pushpa

... Petitioner

v.

The Deputy Commissioner of Labour,
Workmen Compensation Court,
Salem.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order in Na.Ka.No.A2/8842/2012, dated 26.11.2012 passed by the respondent and quash the same and may issue consequential direction directing the respondent herein to disburse the award amount passed in W.C.No.770 of 2006 with interest in favour of the petitioner and her husband, who are the claimants in the above W.C.No.770 of 2006 on the file of respondent herein.

For petitioner : Mr.R.Marudhachalamurthy

For Respondents : Mr.V.Subbiah
Special Govt. Pleader

ORDER

The petitioner has filed the above writ petition to issue a writ of Certiorarified Mandamus to call for the records pertaining to the order dated 26.11.2012 passed by the respondent, quash the same and consequently direct the respondent to disburse the award amount passed in W.C.No.770 of 2006 with interest in favour of the petitioner and her husband, who are the claimants in the above W.C.No.770 of 2006 on the file of the respondent.

2. It is the case of the petitioner that on 23.10.2006, her son viz., Chinnadurai succumbed when he was in duty. As the dependents of the deceased Chinnadurai, the petitioner and her husband filed claim petition before the respondent in W.C.No.770 of 2006 and the respondent awarded a sum of Rs.4,20,058/- on 15.09.2009 and the award amount was deposited by respondent in the claim petition before the respondent herein on 25.01.2010. When the petitioner and her husband took steps to withdraw the said

amount, they came to know that one Soundarapandiyan, who was working as an Officer, misappropriated the deposited amount of Rs.4,20,058/- and that a criminal case was registered against him in Crime No.13 of 2010 on 7.9.2010 by the Central Crime Branch, Salem. Later, the petitioner came to know that the said Soundarapandiyan had redeposited the amount in the account of the respondent, who have maintained the account in Indian Bank, Gugai Branch, Salem. Immediately, the petitioner again approached the respondent for withdrawing the said amount. However, the petitioner was orally informed that till the completion of the criminal case against the said Soundarapandiyan, the amount could not be disbursed. On 5.10.2012, the petitioner wrote a letter to the respondent, for which, the respondent, by the letter dated 26.11.2012, informed that the amount can be disbursed only after the completion of the criminal case. In these circumstances, the petitioner has filed the present writ petition seeking for the above relief.

3. Mr.V.Subbiah, learned Special Government Pleader takes notice for the respondent.

4. It is brought to the notice of this court that taking note of the criminal case pending against the said Soundarapandiyan, this court in W.P.No.13447 of 2011, dated 21.06.2011, had permitted one claimant, by name, B.Jagadeesan, to withdraw the award amount in W.C.No.76 of 2008, though the amount deposited in his account was misappropriated by the said Soundarapandiyan.

5. For no fault of the petitioner, she cannot be penalised by not allowing her to withdraw the award amount. In other words, for the alleged wrong done by the said Soundarapandiyan, the petitioner cannot be penalized.

6. In the light of the undisputed facts, the petitioner is entitled to compensation as per the award dated 15.09.2009 made in W.C.No.770 of 2006 and since no appeal has been filed against the said award by the respondent in the claim petition, the same has become final and that the respondent is bound to pay the award amount of Rs.4,20,058/- along with interest to the petitioner without prejudice to the criminal action initiated against the said Soundarapanidyan, then Deputy Commissioner of Labour, Salem. By paying the amount to the petitioner, the rights of the respondent will not be prejudiced and the trial of the criminal case will not be affected as the amount was already deposited in the bank account. Hence, the impugned order dated 26.11.2012 is set aside and the respondent is directed to pay the award amount of Rs.4,20,058/- along with accrued interest to the petitioner within a period of three weeks from the date of receipt of a copy of this order.

The writ petition is allowed with the above direction. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar
Dated:3.3.15

True Copy

Sub Assistant Registrar

To

The Deputy Commissioner of Labour,
Workmen Compensation Court,
Salem.

+1 cc to Government Pleader, SR.10584

+1 cc to Mr.R.Mardhachalamurthy, Advocate, SR.10377.

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