

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2016

CORAM

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

C.M.A.No.508 of 1997

&

C.M.A.No.4987 of 1997

Madras Dock Labour Board,
Rep. by its Deputy Chairman,
Rajaji Salai,
Madras - 600 001. .. Appellant

.. Vs ..

1. Govindammal
2. R.Nazeer Ahmed
3. Mohamed Haneef .. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 of Workmens' Compensation Act, 1923, against the order made by the Deputy Commissioner of Labour -I, Office of the Commissioner for Workmen Compensation-I, Madras - 600 006, made in W.C.No.159 of 1994, dated 04.11.1996.

For appellant : Mr.P.M.Subramaniam

For R-1 : Notice served. No Appearance

For RR-2 & 3 : Dismissed vide Court order dated 21.10.2008

JUDGMENT

This civil miscellaneous appeal is directed against the order passed by the Commissioner for Workmen's Compensation-I, Chennai, in M.C.No.159 of 1994, dated 04.11.1996.

2. The learned counsel for the appellant would mainly contend that the Commissioner for Workmen's compensation ought to have held that the accident occurred after the duty hours while the deceased was going on his cycle and therefore, no accident arose in the course of employment. It is further contended that the Commissioner for Workmen's Compensation is erred in holding that the deceased was going on his cycle after performing his duties on the completion of the shift and also erred in giving a finding directing the appellant to pay

compensation to the claimant. The Commissioner for Workmen's compensation ought to have dismissed the claim petition and hence, the order of the Commissioner has to be set aside and the present appeal has to be allowed.

3. Even though notice was served on the first respondent and her name is also printed in the cause list, she has not chosen to appear either in person or through counsel. Hence, this Court heard the submissions made by the learned counsel for the appellant and perused the records.

4. Admittedly, the deceased in this case viz., Sivalingam was working as a Mazdoor in Token No.2260 under the first opposite party in W.C.No.159 of 1994. Further, on 03.04.1993 at about 14.30 hours, while he was travelling in the vehicle from one place to another place, the lorry, which was driven in a rash and negligent manner, dashed against him, thereby, caused grievous injuries all over the body and he was taken to the hospital where he has taken treatment, but he expired on 08.04.1993. For the above incident, a police case was registered by the Sub-Inspector of Police, M1, Harbour police station, Madras, in Crime No.61/1993 for the offences under Sections 279 and 337 IPC. According to the F.I.R., the place of occurrence is stated as J.D., V South Road, inside the Harbour and hence, the accident was occurred only inside the Harbour. Hence, the argument of the learned counsel for the appellant that the accident was occurred while the deceased was going by cycle after performing his duties on the completion of shift is not at all acceptable one. Hence, the accident was occurred only inside the Harbour while he was travelled in one place to another place. Since the accident was occurred during the course of employment and inside the Harbour and the deceased is a collie and he performed his duties during the course of employment, this Court is of the considered view that there is no illegality or infirmity in the order passed by the Commissioner for Workmen's Compensation and this Court finds no reason to interfere with the order of the Commissioner for Workmen's Compensation. Hence, the argument of the learned counsel for the appellant that the appellant is not liable to pay compensation to the claimant is not at all acceptable. Since the accident was occurred during the course of employment and inside the Harbour which is the working place of the deceased, the citation produced by the learned counsel for the appellant is not at all applicable to the facts of the present case and hence, the civil miscellaneous appeal is liable to be dismissed.

5. In the result, the civil miscellaneous appeal is dismissed by confirming the order passed by the Commissioner for Workmen's Compensation-I, Chennai, in W.C.No.159 of 1994. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

Jrl

To

The Deputy Commissioner of Labour -I,
Office of the Commissioner for
Workmen Compensation-I,
Madras - 600 006.

Copy to

The Section Officer
VR Section,
High Court, Madras

1 cc to Mr.P.M. Subramaniam, Advocate, Sr. 64501

C.M.A.No.508 of 1997

RK (CO)
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