

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.155 of 2016

1. Tamil Nadu Electricity Board
rep.by its Superintending Engineer
Cuddalore Electricity Distribution Circle
Capper Hills
Cuddalore-4
 2. The Junior Engineer
Tamil Nadu Electricity Board
(Rural) West
Pathirikuppam Section
Pathirikuppam
Cuddalore Taluk
- ... Appellants/Respondents

-Vs-

1. Tmt.M.Veerammal
 2. Thiru.Ramkumar
 3. Selvi.Divya
- ... Respondents/Claimants

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 30 of the Workmen's Compensation Act, 1923 against the order dated 19.6.2013 made in W.C.No.314 of 2011 on the file of the Deputy Commissioner of Labour-II, Chennai-6.

For Appellants :: Mr.V.Viswanathan

For Respondents :: Mr.R.Muralidharan

JUDGMENT

Aggrieved by the impugned order of compensation granted by the Deputy Commissioner of Labour No.II, Chennai in W.C.No.314 of 2011 dated 19.6.2013 in favour of the respondents/claimants, the present civil miscellaneous appeal has been preferred by the Tamil Nadu Electricity Board represented by its Superintending Engineer, Cuddalore Electricity Distribution Circle.

2. Heard the learned counsel for the appellant. Mr.R.Muralidharan, learned counsel takes notice on behalf of the respondents/claimants.

3. Learned counsel for the appellant contended that the Deputy Commissioner of Labour No.II, Chennai erred in holding that the appellants are the principal employers of the deceased, when the deceased was admittedly not a workman under the Board. Adding further, he contended that when the deceased had attended the work on 26.3.2010 without any instructions from the Board officials, the appellants are not entitled to pay the compensation. In any event, the learned counsel contended that the Deputy Commissioner of Labour No.II, Chennai erred in holding that the deceased was earning a sum of Rs.10,000/- per month, when there was no documentary evidence to support the same. On this basis, he prayed for interference with the impugned order.

4. But this Court is not inclined to accept any of his contentions. It is not in dispute that the respondents/claimants, being the wife, son and daughter of late Mr.Muthulingam, aged 40 years, have filed the application under Section 10(1) of the Workmen's Compensation Act, 1923 seeking compensation for the death of the sole breadwinner of the family, on the ground that the electrocution had occurred during the course of employment, while carrying out the repair work in SS4 transformer situate at Arisiperiyankuppam, Cuddalore Taluk as instructed by the appellants. Though the said claim was resisted by the appellants contending that the incident did not happen during the course of employment and therefore they are not liable or responsible for the death of the said Muthulingam, the Deputy Commissioner of Labour No.II, Chennai, considering the evidence let in P.W.1-Mrs.Veerammal and P.W.2-Mr.Krishnamoorthy, an independent eye-witness to the occurrence and also the documents marked on the side of P.W.1 through Ex.P1-First Information Report and Ex.P4-reply given by the second appellant to the notice sent by the first respondent, held that the deceased was a 'workman' under the second appellant and that he died only during the course of his employment based on the post-mortem certificate, Ex.P2. The Deputy Commissioner of Labour also took the age of the deceased as 40 based on the post-mortem certificate, Ex.P2 and also fixed his salary as Rs.10,000/- per month, since no document was produced by the appellants to disprove the same. Based on the evidence let in by the parties, both oral and documentary, the Deputy Commissioner of Labour No.II, Chennai finally fixed the compensation for the loss of life of the sole breadwinner at Rs.9,20,850/- (i.e., $50/100 \times 184.17 \times 10000 = \text{Rs.}9,20,850/-$) to be paid by the first appellant, since the deceased was working as a workman under the second appellant on 26.3.2010, the date of incident. In addition thereto, the Deputy Commissioner of Labour

has also granted a sum of Rs.5,000/- towards the funeral expenses of the deceased, thus totalling in all a sum of Rs.9,25,850/- as the total compensation to the respondents/claimants. The said amount was directed to be deposited within a period of 30 days from the date of receipt of the order, failing which it would carry simple interest at the rate of 12% per annum from 26.3.2010 till the date of the actual deposit. This Court does not find any merit in any of the contentions made by the learned counsel for the appellants nor any substantial question of law to interfere with the impugned order. Accordingly, the civil miscellaneous appeal is dismissed confirming the impugned order passed by the Deputy Commissioner of Labour No.II, Chennai. Learned counsel for the appellants fairly submitted that the entire compensation amount along with the accrued interest was already deposited before the lower authority on 30.7.2014. Hence the respondents/claimants are entitled to withdraw the entire sum along with the accrued interest by moving appropriate application before the lower authority. Consequently, C.M.P.No.1298 of 2016 is also dismissed. No costs.

-s/d-
Assistant Registrar(CSV)

True Copy

Sub-Assistant Registrar

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To

The Deputy Commissioner of Labour No.II
Teynampet
Chennai-600 006

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