

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2016

CORAM

THE HON'BLE MR. JUSTICE T.MATHIVANAN

C.M.A.No.617 of 2011

&

M.P.No.1 of 2011 & C.M.P.No.10052 of 2016

M/s.Archean Granites Pvt. Ltd.,
rep. By its Officer-Accounts
having Regd & Corporate Office
at No.32/D, North Crescent Road
T.Nagar, Chennai - 600 017 ... Appellant/Respondent

Vs.

Mrs.Chinnamma ... Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 76 of the Mental Health Act, 1987 against the order dated 9.3.2010 of the learned Commissioner for Workmen's Compensation (Deputy Commissioner of Labour-I, Chennai) passed in W.C.No.112 of 2006, (which order as received by the Appellant Company by Registered Post on 14.05.2010) whereby the respondent's (applicant's) claim was allowed.

For Appellant : No Appearance

For Respondents : Mr.S.Paul Gnanamuthu

JUDGMENT

Impugning the award of the Commissioner of Workmen's Compensation (Deputy Commissioner for Labour - I), Chennai, this appeal is filed by the respondent/employer.

2. It is revealed from the records that one Vijayan, who is none other than the son of the respondent/claimant, had died on 15.05.2005 while he was on employment under the

appellant/claimant on account of chest pain. It is also revealed that at the relevant period, he was engaged in loading granite stones in the lorry. The respondent/claimant had moved the Workmen's Compensation Tribunal with a claim petition in W.C.No.112 of 2006 claiming a sum of Rs.5,00,000/- towards the compensation for the death of her son. The appellant/employer had contested the claim by filing counter statement.

3. On appreciation of evidences, both oral and documentary, the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour - 1), Chennai had proceeded to award totally a sum of Rs.3,29,759/- and directed the appellant/employer to pay this amount within 30 days from the date of receipt of a copy of the award by way of Demand Draft. The learned Commissioner also directed the appellant/employer to add interest at the rate of 12% per annum from the date of claim petition till the date of realization. The award passed by the Commissioner of Labour dated 09.03.2010 has been challenged in this appeal.

4. When the appeal came up for hearing on 09.03.2011, the appeal was admitted and an order of stay in respect of the operation of the order dated 09.03.2010 made in W.C.No.2 of 2006 was granted. It is also revealed from the records that the respondent/claimant has subsequently taken up a petition in C.M.P.No.10052 of 2016 to vacate the order of interim stay dated 09.03.2011. Notice was served on the respondent in this petition. However, when the appeal came up for hearing on 13.07.2016, there was no representation on behalf of the appellant and therefore the appeal stood adjourned to 14.07.2016. On that date also there was no representation for the appellant and hence, it was ordered to be listed on the next day i.e., on 15.07.2016 under the caption "For Dismissal". Even on that day also, there was no representation for the appellant. But, on the other hand, Mr.Paul Gnanamuthu was present on behalf of the respondent/claimant and submitted that unless and until the interim stay in respect of the award passed by the Workmen's Compensation Tribunal dated 09.03.2010 is vacated, the respondent/claimant would be put into irreparable hardship as she is prevented from enjoying the fruits of the order. He has also submitted that the order of stay might be vacated and the respondent/claimant be permitted to withdraw the amount deposited by the appellant company.

5. Since there was no representation on behalf of the appellant company, it is presumed that the appellant does not have any interest in prosecuting the appeal. Therefore, the appeal is liable to be dismissed for non-prosecution.

Accordingly, the Civil Miscellaneous Appeal is dismissed for non-prosecution and the petition in C.M.P.No.10052 of 2016 is allowed and the order of interim stay dated 09.03.2011 is vacated and M.P.No.1 of 2011 is dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gpa

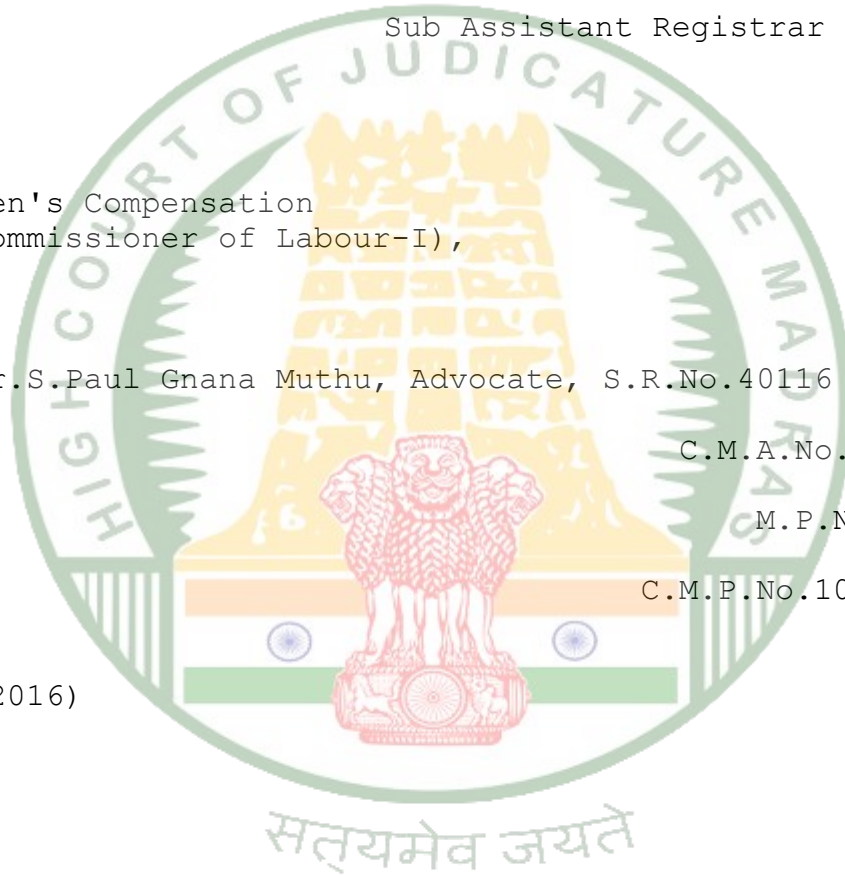
To

The Workmen's Compensation
(Deputy Commissioner of Labour-I),
Chennai.

+lcc to Mr.S.Paul Gnana Muthu, Advocate, S.R.No.40116

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RJ(CO)
CA(23/08/2016)



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