

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2016

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

C.M.A.No.1480 of 2004

Somasundaram,
Proprietor of Hotel Ajantha

.. Appellant

Vs

1.Subbammal
2.Suseela
3.Chithra

4.The Managing Director,
The Agricultural Producers Co-op.
Marketing Society,
Tiruchengode, Namakkal District.

5.The United India Insurance Company Ltd.,
Sankari, Salem District.

.. Respondents

Prayer: Appeal filed under Section 30 of Workmen's Compensation Act, 1925 against the order dated 31.01.2002, made in W.C.No.362 of 1997, on the file of the Commissioner for Workmen's Compensation and Deputy Commissioner of Labour, Salem.

For appellant : Mr.N.Manoharan

For R1 to R3 : No Appearance

For R4 : Mr.L.P.Shanmugha Sundaram

For R5 : Mr.T.Ravichandran

JUDGMENT

This appeal is preferred by the employer against the order dated 31.01.2002, made in W.C.No.362 of 1997, on the file of the Commissioner for Workmen's Compensation and Deputy Commissioner of Labour, Salem.

2. The appellant is running a Hotel under the name and style of "Hotel Ajantha" at Tiruchengode. The deceased-Annamalai was a cook in the said Hotel. The deceased met with an accident on 05.06.1997 at about 5 p.m. due to the bursting of a LPG stove, while he was preparing certain food in the kitchen. Immediately after the said incident, he was taken to the Government Hospital, Erode, where

he died on 06.06.1997. Subsequently, respondents 1 to 3 herein/wife and daughters of the deceased have filed a claim petition claiming a sum of Rs.2 lakhs as compensation.

3. After considering the oral and documentary evidence, the Deputy Commissioner of Labour has come to the conclusion that the deceased died only during the course of the employment in the appellant's hotel and awarded a compensation of Rs.99,830/- without interest.

4. Learned counsel appearing for the appellant submitted that the amount awarded by the Deputy Commissioner is excessive, exorbitant, without basis and justification. He further contended that though the claimants have not produced any salary certificate, the learned Deputy Commissioner has wrongly fixed the monthly salary of the deceased at Rs.1304.20/- and thereby it has awarded a sum Rs.99,830/- as compensation. It is his further contention that the deceased was not at all an employee of the appellant and the accident had not occurred during the course of the employment in the hotel. On this basis, he prayed for setting aside of the order as the same is not in accordance with law.

5. This Court does not find any merit on the above said contentions, for, the sole contention of the appellant is that the deceased was not employed in their hotel. However, to substantiate such contention, neither they brought any of the co-employees of the deceased for deposition nor appeared before the enquiry though they have filed a counter statement. Thus, it is clear that they have deliberately evaded from such procedures.

6. Further, it is stated in the Ex.P1-First Information Report that while the deceased was working as a cook in the said Hotel on 05.06.1997 at about 5 p.m., the LPG stove got busted, as a result, the deceased died on 06.06.1997 at the Government Hospital, Erode. It is also stated in Ex.P2-Postmortem Report that the deceased died due to the said accident happened on the fateful day. P.W.1 - wife of the deceased deposed that her husband died during the course of the employment in the said hotel due to the bursting of LPG stove. However, on the other hand, the employer/appellant herein did not bring/produce any witness/document before the learned Labour Commissioner.

7. Thus, by looking into all the above said factual aspects, the learned Deputy Commissioner had rightly held against the employer and thereby, the learned Labour Commissioner had awarded a sum of Rs.99,830/- as compensation to be payable to the claimants, wife and daughters of the deceased. Therefore, this Court does not find any reason to interfere with a well reasoned order passed by the learned Labour Commissioner.

8. In fine, for the reasons stated above, the Civil Miscellaneous Appeal is dismissed with a cost of Rs.10,000/- to be

paid by the employer/appellant to the claimants within a period of two weeks from the date of receipt of a copy of this judgment, as they unnecessarily dragged this issue for about 19 years against the compensation of Rs.99,830/-, that too without interest, awarded by the learned Labour Commissioner for the death of a breadwinner of the claimant's family. CMP.No.7829 of 2014 is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Commissioner for Workmen's Compensation and Deputy Commissioner of Labour, Salem.

+1 CC to M/S.L.P.Shanmugasundaram, Advocate SR.No.54066

+1 CC to M/S.N.Manokaran, Advocate SR.No.54129

+1 CC to M/S.T.Ravihandran, Advocate SR.No.54813

CO-SAI

ths : 24.10.2016

C.M.A. No.1480 of 2004

सत्यमेव जयते

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