



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.12.2016

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

WEB COPY

W.P.(MD) No.1312 of 2016

W.M.P.(MD) No.1084 of 2016

Thilagavathi

... Petitioner

-vs-

1. The Deputy Commissioner,
Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Race Course Road,
Madurai-2.

... Respondent

2. S.Sathaiah

3. S.Kamalam

... Respondents/Proposed
Respondents

(R2 & R3 impleaded vide order dated 16.12.2016)

(Passed in WMP(MD) 5556/2016)

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records in Aa4/6017/14 dated 09.12.2015 on the file of the Deputy Commissioner of Labour, Madurai, quash the same and direct the respondent to pay the entire compensation to the writ petitioner and her children.

For Petitioner : Mr.KR.Singaravadivel

For R1 : Mr.S.Sathish Kumar
Addl. Govt.Pleader

For R2 & R3 : Mr.S.Viswalingam

O R D E R

This petition has been filed, seeking to quash the impugned order of the 1st respondent dated 09.12.2015 passed in Aa4/6017/14, by which, departmental enquiry has been conducted and the amount of Rs.5,75,720/- due to the deceased employee has been disbursed in proportion to his dependents, namely, wife of the deceased, mother of the deceased and father of the deceased, excluding his children, who attained majority. Challenging the said order, the petitioner is before this Court and the petitioner also sought a direction to the respondent to pay the entire compensation to her and her children.

2.The case of the petitioner is that she is the wife of one Subramaniyan, who, while working as Machine Operator at Sakthi Sugar Mills at Sivagangai, suffered a grave injury and subsequently, died on account of the same, which happened in the course of employment; that based on the claim petition filed by the petitioner under Section 22 of the Workmen Compensation Act, (hereinafter referred to as "the Act"), an Award of Rs.5,75,720/- has been passed by the Tribunal and the said Award has also become final; that based on the



report of the Enquiry Officer appointed by the Deputy Commissioner of Labour, Madurai to ascertain the real dependents of the deceased employee, children of the deceased have been excluded from the array of dependents and the father and mother of the deceased were included as dependants of the deceased Subramaniyan. Aggrieved by the same the petitioner has approached this Court with the relief stated supra.

3. Learned counsel for the petitioner would submit that as the Act contemplates that dependant means widow, a minor (legitimate or adopted) son, an unmarried (legitimate or adopted) daughter or a widowed mother, who are alone eligible to receive the compensation and as the mother of the deceased employee is not a widow, the question of granting compensation to the parents does not arise at all.
4. Learned counsel for the respondents 2 and 3 would contend that they were dependant on their deceased son, namely, Subramanian and that due to ill-feeling, the petitioner herein had deserted him and did not live with him during his last period of two years; that it was his father, who spent money for his medical expenses and therefore, the impugned order is perfectly valid in the eye of law and it does not require any interference by this Court.
5. Heard the learned counsel on either side.
6. The petitioner has contended that her children have not been included in the claim. The respondent has clearly stated that since the children of the deceased have completed 18 years of age and attained majority, there is a bar under the provisions of the Act to treat them as dependants of the deceased employee. Moreover, this Court finds nothing wrong in adding the parents of the deceased as dependants, as it was rightly contended by the 1st respondent that under Section 2(1)(d)(iii)(b) of the Act, it has been mentioned as "a parent other than a widowed mother". Even assuming for the sake of argument that the children of the petitioner have got to be treated as dependants, the amount of compensation will have to be apportioned from the money payable to their mother, namely, the petitioner herein and not from the amount payable to the parents of the deceased employee. Therefore, finding no merits in the writ petition, the same is liable to be dismissed.

7. Accordingly, the Writ Petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petitions is closed.

Sd/-

Assistant Registrar[RTI]



To:

The Deputy Commissioner,
Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Race Course Road,
Madurai-2.

+1cc to M/s K.R.Singara vadivel, Advocate, SR.81500

+1cc to Mr.S.Visvalingam, Advocate, SR.81495

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