IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2017

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.8171 of 2008

D.Muthukrishnan ... Petitioner

Vs

1.The District Collector,
Thiruvellore, Thiruvellore District.

2.The Management of Hybrid Auto Cast,
No.352, SIDCO Industrial Estate,
Ambattur, Chennai 600 098.

3.R.Nandakumar,
1/1, Thillaipuram 2nd Street,
Periya Thoppu, Manali,
Chennai 600 068. ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, to direct the first respondent to take appropriate steps to collect the amount, from the 2nd respondent without further delay as per proceeding of Deputy Commissioner of Labour-2, Chennai, No.B3/6166/2006, dated 28.09.2007, and to pay it to the petitioner.

For Petitioner : Mr.S.T.Varadarajulu
For Respondents : Mr.S.Gunasekaran,
Additional Government Pleader for R1
: Mr.R.Krishnaswamy for R2

O R D E R

Heard Mr.S.T.Varadarajulu, learned counsel for the petitioner and Mr.S.Gunasekaran, learned Additional Government Pleader appearing for the first respondent and Mr.R.Krishnaswamy, learned counsel appearing for the second respondent.

2. The petitioner has approached this Court for seeking the following relief,

"To issue a writ of Mandamus, to direct the first respondent to take appropriate steps to collect the

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amount, from the 2nd respondent without further delay as per proceeding of Deputy Commissioner of Labour-2, Chennai, No.B3/6166/2006, dated 28.09.2007, and to pay it to the petitioner."

3. The case of the petitioner is as follows:-

According to the petitioner, his brother aged about 24 years was employed in the second respondent Management. During the course of his employment, he suffered head injury and died. At the time of his death, he was only 24 years old and survived by his mother and the petitioner. In the said circumstances, an application was filed under the provisions of Workmen Compensation Act, 1923 (hereinafter referred to as the Act). The third respondent herein, was a Contractor and through whom, the deceased workman had been employed with the second respondent. Based on the evidence and materials, the authority under the Act, has computed the compensation payable to a sum of Rs.2,19,470/- by an award dated 14.07.2003.

4. An application was filed by the third respondent to re-consider the order and however, the earlier order was confirmed by an order dated 10.03.2006. Inspite of the award being granted as early as in 2003 and 2006, no deposit was made and the petitioner could not realise the amount of the award. Thereafter, a certificate was also issued by the Deputy Commissioner of Labour on 28.09.2007, to the first respondent, with a request to recover the compensation from the second respondent who was the principal employer.

5. According to the learned counsel for the petitioner, inspite of lapse of several years, no action has been taken by the first respondent to recover the amount from the second and third respondents, particularly, the second respondent, who is being the principal employer, was liable to make the compensation amount under the Act. In the said circumstances, the learned counsel would submit that the first respondent is the competent authority to initiate action for the recovery of money from the second respondent, in terms of the award passed by the authority of the Act, based on the certificate issued by him on 28.09.2007.

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6. Upon notice, the learned Additional Government Pleader appearing for the first respondent and the learned counsel appearing for the second respondent have entered appearance.

7. It has to be seen that although nearly 14 years have lapsed after the initial date of award under the Act, no effective steps have been initiated by the first respondent towards the realisation of the award amount till date. As far as the petitioner was concerned, there was no communication in this

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regard to him as to the status of the action initiated by the first respondent towards recovery of the amount from the second and third respondents.

8. In the said circumstances, this Court has no other option except to give direction as prayed for by the petitioner. The first respondent is directed to forthwith initiate action against the second respondent for recovery of the award amount, on the basis of the certificate issued by the authority under the Act dated 28.09.2007, in terms of the award passed by the authority and pay the same to the petitioner and the legal heirs of the deceased employee. The said action if not already taken, shall be initiated and completed within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above direction, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsk

To

The District Collector,
Thiruvellore,
Thiruvellore District.

+1cc to Mr.S.T.Varadharajan, Advocate, S.R.No.83518

+1cc to the Government Pleader, S.R.No.83693

W.P.No.8171 of 2008

RRK(12/01/2018)

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