

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2017

CORAM :

THE HONOURABLE Mr.JUSTICE T.RAJA

W.P.No.28680 of 2017

and

W.M.P.Nos.30861 & 30862 of 2017

T.G.Meenakshi Sundram

... Petitioner

Vs.

1.The Deputy Commissioner of Labour,
(Commissioner of Employees Compensation),
DMS Compound, Thenampet, Chennai-600 006.

2.Ravindranath GE Medical Associates Pvt Ltd.,
Owner of Global Health City Hospital,
represented by its Manaing Director,
#439, Cheran Nagar,
Sholinganallur-Medavakkam Road,
Perumbakkam, Chennai-600 100.

3.The Management of Kwik Patch Limited,
Kolambakkam Village,
Palayanur Post,
Madhuranthakkam Taluk,
Kancheepuram District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 1st respondent herein to actual life the Provisions of Section 4 (2A) of the Employees' Compensation Act 1923 by requiring 3rd respondent to forthwith ensure to pay all expenses for the treatment of the petitioner with the 2nd respondent hospital and to ensure Bilateral Hand Transplantation for the petitioner subject to feasibility.

For Petitioner : Mr.V.Prakash, Senior Counsel
for M/s.S.K.Sudalaikannu

For Respondents : Mr.R.A.S.Senthilvel, AGP

ORDER

Mr.R.A.S.Senthilvel, learned Additional Government Pleader, took notice for the respondents.

2.This writ petition has been filed seeking to direct the 1st respondent herein to pay compensation, under the Provisions of Section 4(2A) of the Employees' Compensation Act 1923, by requiring 3rd respondent to forthwith ensure to pay all expenses for the treatment of the petitioner with the 2nd respondent hospital and to ensure Bilateral Hand Transplantation for the petitioner subject to feasibility.

3.Mr.V.Prakash, the learned Senior Counsel appearing for the petitioner, would submit that the petitioner was an employee appointed by the 3rd respondent-Management at its factory at Kolampakkam Village from 22.09.2016. The 3rd respondent manufactures tube for truck tyres. The factory supervisor, on 24.09.2016, directed the petitioner to operate the patching machine. On the basis of the direction given by the factory supervisor, the petitioner was operating the machine and while doing so, his arms got struck in the machine, as a result, he lost all his fingers of both hands. Immediately, he was taken to Government General Hospital by the staff of the 3rd respondent and on the same day, he was referred for the treatment to the Global Health City run by the Ravindranath GE Medical Associates Pvt Ltd, (2nd respondent herein). Thereafter, the petitioner was admitted in the Global Health City Hospital on 24.09.2016 and he underwent several surgeries. In the meanwhile, an application was filed before the Deputy Commissioner of Labour (1st respondent herein), seeking suitable compensation and FIR was also registered against the company (3rd respondent) on 05.12.2016 under Section 287 & 338 IPC. Thereafter, the petitioner has been discharged from the Global Health City Hospital on 17.10.2016 with an advice to come for pre-hand transplant evaluation at the earlier point of time. Now, the petitioner has to mobilize funds for the Bilateral Hands Transplantation to the tune of Rs.24,60,000/-. As the accident has admittedly taken place in the factory of the 3rd respondent on 24.09.2016, the petitioner cannot be made to wait till the award is passed by the Deputy Commissioner of Labour; therefore, a direction be issued to the 3rd respondent to deposit Rs.24,60,000/- with the 2nd respondent, pending disposal of the writ petition.

4.But, this Court is unable to find any merit in the said submission made by the learned senior counsel for the petitioner, the reason is that if the worker or employee during the course of employment suffers any injury, either simple or fatal, he has to workout his remedy for getting compensation by

approaching the property authority. In the present case, the petitioner sustained injury and he has already made a claim before the Deputy Commissioner of Labour (1st respondent). As the matter is pending on the file of the 1st respondent, after enquiry and after giving a finding with regard to the issue as to whether the accident had occurred during the course of employment, the 1st respondent will have to pass an award fixing just and fair compensation. While that being the settled legal position, the petitioner cannot come to this Court seeking an interim compensation. There is no merit in the submission made by the learned senior counsel for the petitioner. This Court is not inclined to entertain the writ petition.

5.Hence, the writ petition is dismissed. However, the 1st respondent can expedite the pending claim petition made by the petitioner, preferably within a period of four weeks. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssv

To

1.The Deputy Commissioner of Labour,
(Commissioner of Employees Compensation),
DMS Compound, Thenampet, Chennai-600 006.

+1cc to Mr.K.Sudalaikannu, Advocate SR.No.79576

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sm:7.12.2017

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