



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.108 of 2016
and
C.M.P. (MD) .No.1610 of 2016

The Managing Director,
Mahavishnu Spinning Mills Pvt Ltd.,
Elayarasanendal Road,
Ayyaneri, Kovipatty.

... Appellant

Vs.

S.Ramasamy

... Respondent

Prayer: Appeal filed under Section 30 of Workmen's Compensation Act, 1923, to allow the Civil Miscellaneous Appeal and to set aside the order passed by the Commissioner of Workmen's compensation Act (Deputy Commissioner of Labour) Madurai dated 20.10.2015 in W.C.No.8 of 2011

For Appellant : Mr.S.Seenivasagam
For Respondent : Mr.S.Laksmanan

JUDGMENT

Heard the learned counsel on either side.

2.The employer has filed this appeal questioning the award passed under the Employees Compensation Act, 1923. The respondent herein met with an accident. During the course of his employment, two of his fingers got crushed. The Commissioner of Workmen's Compensation passed an award dated 20.10.2015 directing the employer to pay a sum of Rs.1,30,990/-. Aggrieved by the same this appeal has been preferred.

3.This appeal was admitted, since the following substantial questions of law arose for consideration:-

"A) Whether an "Unpaid Apprentice" would come under the ambit of "workman" under Sec 2(n) of the Workmen's Compensation Act?

B) Whether a person never engaged for "wages" can claim compensation under the Workmen's Compensation Act?



"If personal injury is caused to an apprentice, by accident arising out of and in the course of his training as an apprentice, his employer shall be liable to pay compensation which shall be determined and paid, in accordance with the provisions of the Workmen's Compensation Act, 1923."

7. The learned counsel appearing for the respondent would contend that the employer is not liable since the apprentice disregarded safety measures and courted danger and invited the accident in question. It is true that Section 3 of the Employees Compensation Act, 1923, exempts the employers from liability under such circumstances. But in order to exempt the employer from liability, willful conduct on the part of the employee must be shown. Even according to the employer, the respondent is not a seasoned worker. He was after all an apprentice who had come for training. It may be that he did not adhere to the safety standards. But that is not sufficient to characterise his conduct as willful. The employer has not been able to show that the respondent has been willful in his conduct. I therefore hold that the Commissioner for workmen's Compensation rightly fastened the liability on the employer. It is a fact that the accident happened and it is a fact that the employee suffered injuries. The Commissioner merely applied the statutory formula and awarded a compensation of Rs.1,30,990/-. The awarded amount cannot be said to be excessive. I see no reason to interfere. The award dated 20.10.2015, made in in W.C.No.8 of 2011 on the file of the Commissioner of Workmen's compensation Act (Deputy Commissioner of



Labour) Madurai is confirmed. The respondent is permitted to withdraw the amount deposited by the appellant.

8. This Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner of Workmen's compensation Act
(Deputy Commissioner of Labour), Madurai.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

DSS/TSG

JS/JC/SAR.3/17.11.2017/3P-3C

C.M.A. (MD) No.108 of 2016

and

C.M.P. (MD) .No.1610 of 2016

02.11.2017