



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.601 of 2017

and

C.M.P. (MD)No.6261 of 2017

Sivan Pandian

... Appellant / Respondent

Vs.

1.Muthulakshmi

2.Krishnan

... Respondents / Petitioners

PRAYER:- Civil Miscellaneous Appeal filed under Section 30 of the Workmen Compensation Act, against award passed in W.C.No.92 of 2011, dated 08.03.2016, on the file of the Deputy Commissioner of Labour, Tirunelveli.

For Appellant : Mr.N.Ranjith

For Respondents : Mr.A.Sivasubramanian

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant against the award, dated 08.03.2016 made in W.C.No.92 of 2011 on the file of the Deputy Commissioner of Labour, Tirunelveli.

2. The appellant is the respondent in W.C.No.92 of 2011. The respondents herein filed the said petition claiming compensation for the death occurred to their son by name Kuttiraj in the accident occurred on 29.08.2011 at about 14.30 hours at Thuthikulam-Kuthukrishnaperi Road, during the course of employment as Driver in the services of the appellant.

3.Before the Deputy Commissioner of Labour, Tirunelveli, the respondents 1 & 2/Claimants examined two witnesses as P.Ws.1 and 2 and marked four documents as Ex.P.1 to Ex.P.4. On the side of the appellant, three witnesses were examined as R.W1 to R.W.3 and two documents were marked as Ex.R1 and Ex.R2.

4. After considering all the materials and evidence, the Deputy Commissioner of Labour, Tirunelveli, awarded compensation of Rs.6,64,850/- and directed the appellant to pay the compensation.



5. Challenging the said award, the appellant has preferred this appeal.

6. The learned counsel appearing for the appellant contended that there is no employer-employee relationship between the deceased and the appellant and the name of the deceased was also wrongly mentioned in the Post-mortem Report and later on, it was corrected and therefore, the finding of the Tribunal that the deceased was employed under the appellant at the time of accident, is to be set aside.

7. Per contra, the learned counsel for the respondents submitted that nowhere it has been rebutted as to the identity of the deceased person and with regard to the employer-employer relationship, the Deputy Commissioner, has given a clear finding based on the deposition of R.W.2, who is none other than the own brother of the appellant/employer and he deposed stating that the deceased was employed as a Driver of the vehicle, by the appellant.

8. Heard the learned counsel appearing on both sides and perused the materials available on record.

9. A perusal of the award passed by the Deputy Commissioner of Labour, Tirunelveli, had discussed in detail and based on the evidence of R.W.2, who is none other than the own brother of the appellant/employer, found that the deceased was employed under the appellant as a Driver at the time of accident and therefore, there is no infirmity in the award passed by the Deputy Commissioner of Labour, Tirunelveli. Thus, I find that no question of law arises for consideration in this appeal.

10. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 08.03.2016 made in W.C.No.92 of 2011 by the Deputy Commissioner of Labour, Tirunelveli, is hereby confirmed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To,

<https://hcservices.depintcs.gov.in/>
The Deputy Commissioner of Labour,
Tirunelveli.



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

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+1cc to Mr.A.Sivasubramanian, Advocate Sr.No.67089

+1cc to Mr.R.Saravanan, Advocate Sr.No.67180

PM

VB/MR/KKR/SAR3/07/08/2017/3P/5C

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