



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2027

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.445 of 2015

and

M.P.(MD).No.1 of 2015

and

C.M.P.(MD).No.6843 of 2017

Karuppiah

...Appellant/1st Respondent.

Vs.

1.Sannasi

2.Kumaravel

...Respondents/Petitioners.

Prayer: This Civil Miscellaneous Appeal is filed under Section 30 of Workmen Compensation Act, 1923, to set aside the award of Deputy Commissioner of Labour, Trichirappalli dated 05.05.2014 in W.C.No.89 of 2004.

For Appellant : Mr.N.Balakrishnan

For Respondents : Mr.D.Senthil for R1
R2-No Appearance

JUDGMENT

Heard the learned counsel on either side.

2.The first respondent filed W.C.No.89 of 2004, dated 05.05.2014 on the file of the Deputy Commissioner of Labour, Trichirappalli.

3.The learned counsel for the first respondent contented that when the first respondent was engaged in deepening the well of the appellant herein, the accident occurred and he suffered serious injuries. The crane's rope was cut and the first respondent fell into the 60 feet deep well. The crane belonged to the second respondent herein. He claimed compensation for a sum of Rs.10,00,000/-. The appellant herein filed his counter denying the very occurrence of this incident. He also contended that the second respondent herein did not own any crane in the year 2003. But the Commissioner for Workman compensation passed the impugned award directing the appellant to pay a sum of Rs,3,72,118./- with 12% interest. Aggrieved by the same this appeal has been filed.



4.This Court admitted the appeal on the following substantial questions of law arose for determination:-

"(a)Has not the Deputy Commissioner of Labour erred in law in rejecting Ex.B1, on the ground that same is only a xerox copy and not clear?

(b)Has not the Deputy Commissioner of Labour erred in accepting the evidence of Village Administrative Officer given before the Revenue Inspector Kulathur, when village Administrative Officer was not examined?

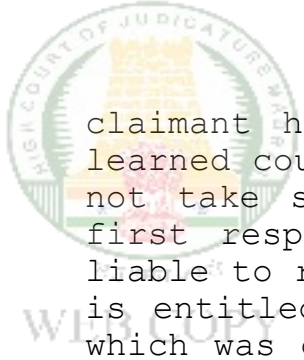
(c)Whether the Deputy Commissioner of Labour has erred in law holding the respondents suffered injuries while working for the appellant, when there was no employer employee relationship?

(d)Whether the Deputy Commissioner of Labour has erred in law in accepting wound certificate-Ex.A1, to arrive at quantum of compensation?"

5.When the matter was taken up for final disposal, the learned counsel appearing for the appellant would focus more on the third substantial question of law namely existence of employer and employee relationship. It can be seen that the appellant had taken a specific plea that he did not undertake any work of deepening of well and that there is no need for him to engage the services of the second respondent. Even according to the claimant he was not the direct employee of the appellant herein. He was only working as crane operator of the second respondent herein. When the appellant had chosen to refute the version of the claimant in its entirety, it is incumbent on the part of the claimant to prove this case.

6.I am of the view that the first respondent herein miserably failed to discharge the onus cast on him. There is no evidence available on record to show that the second respondent herein owned a crane during the year 2003 and that he was engaged by the appellant to carry out the work of deepening of the well. There is also no evidence available on record to show that the first respondent had the technical qualification to operate the crane and to work as crane operator.

7.Excepting the bare oral version of the first respondent there is no other credible material on record. I am therefore constrained to come to the conclusion that the first respondent has not established the occurrence so as to fasten liability on the appellant herein. I therefore answer the third substantial question of law in favour of the appellant. Therefore there is no need to consider the other contentions raised in this appeal. The award dated 05.05.2014 made in W.C.No.89 of 2004. on the file of the Deputy Commissioner of Labour, Trichirappalli is set aside. The appellant had already deposited the entire award amount. The



claimant had also withdrawn 50% of the same with interest. The learned counsel for the appellant submitted that the appellant shall not take steps for recovering the said withdrawn amount from the first respondent. In other words, the first respondent is not liable to refund the amount already withdrawn by him. The appellant is entitled to withdraw the remaining amount with accrued interest which was deposited by him to the credit of W.C.No.89 of 2004, on the file of the Deputy Commissioner of Labour, Trichirappalli.

8. With these observations and directions, this appeal stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

/True Copy/

Sub Assistant Registrar.

To
The Deputy Commissioner of Labour,
Trichirappalli.

Copy to:

1. The Record Keeper,
Madurai Bench of Madras High Court, Madurai.

2. Mr. Kumaravel, S/o. Mani,
Aluvanpatty, Kunnandarkoil Post,
Kulathur Taluk, Pudukkottai District.

+1CC to Mr. D. Senthil, Advocate, SR.No.85154

C.M.A. (MD) No.445 of 2015

and

M.P. (MD) .No.1 of 2015

and

C.M.P. (MD) .No.6843 of 2017

02.11.2017

tsg

JM/SV MMS/SAR 2/22.11.2017/3P/5C