



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2017

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A(MD)No.872 of 2015

and

M.P(MD)No.2 of 2015 and C.M.P(MD)No.367 of 2017

- 1.The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Thanjavur.
 - 2.The Assistant Manager,
Santhanam Godown,
Tamil Nadu Civil Supplies Corporation,
Thanjavur.
- .. Appellants/Respondents

-Vs-

S.Durairaj ...Respondent/Claimant

Prayer:- Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, against the order passed in W.C.No.19 of 2011, dated 10.10.2014, on the file of the Commissioner for Workmen's Compensation Act/Deputy Commissioner of Labour, Trichy.

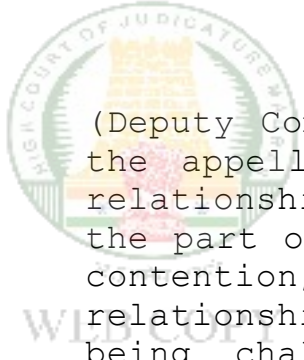
For Appellants : M/s.R.Vijayakumar
For Respondent : M/s.S.Deenadhayalan

JUDGMENT

The Civil Miscellaneous Appeal has been preferred by the Tamil Nadu Civil Supplies Corporation against the award of Rs.95,880/- awarded as compensation for the injuries sustained by the respondent/Claimant.

2.The respondent on 6.3.2009, when he was unloading the gunny bags from the lorry into the go-down along with other workers, bale of gunny bags fell down on him from a height of 10 fts and he sustained injury on the feet of left leg and he was admitted in the hospital and he was operated by fixing a plate in his left leg.

<https://hcservices.courts.gov.in/hcservices/>
3.Because of the injuries sustained by him, the claimant filed a claim petition before the Commissioner for Workmen Compensation



(Deputy Commissioner of labour), Trichy. Before the Commissioner, the appellants took a stand that there is no employer-employee relationship between them and therefore, there is no liability on the part of the appellants to pay the amount. Negating the said contention, the Commissioner held that there is employer-employee relationship and awarded a sum of Rs.95,880/-.The said award is being challenged before this Court.

4.The following substantial questions of law arises for consideration, namely:

1.Whether the respondent is a workmen as defined under Section 2(1)(n) of the Workmen Compensation Act?

2.Is not the claim barred under Section 3(1) of the Workmen Compensation Act as the injury caused to the respondent herein is not arising out of and in the course of employment?

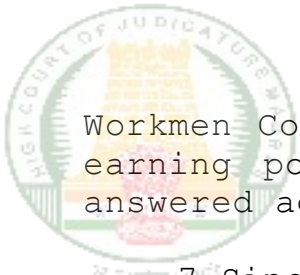
3.Whether the deposition of P.W.2, Doctor to ascertain the disability is admissible in evidence, who had admittedly not treated the injured, when there is no evidence or further treatment?

Substantial Questions 1 and 2:

5.Referring to the substantial questions referred to above, the Commissioner for Workmen Compensation based on the admission made by P.W.1-Management witness, who deposed that the workman sustained injuries when he was unloading the gunny bags from the lorry into the go-down maintained by the appellants/Corporation. That apart, R.W.1 himself has admitted that on the date of accident, R.W.1 stated that the injured was also in employment. That apart, the respondent was given Token No.350 as Load-man by the appellants/Corporation and he has been working in the appellants/Corporation from 1992. Therefore, it is clear that during the course of employment, that too,in the go-down managed by the appellants/Corporation, the accident had occurred. For the appellants' work only, the respondent has been engaged and therefore, the respondent comes under the definition 2(1)(n) of the Workmen Compensation Act as a 'workman'. Hence the substantial questions of law 1 and 2 are answered against the appellants.

Substantial Question No.3:-

6.With regard to the admissibility of deposition of P.W.2-Doctor, it has been stated that though P.W.2 determined the disability at 50%, he has not stated anything about the loss of income. The said contention is misplaced as the Doctor could have examined the victim and assess the disability caused because of the injuries. Based on that, the Commissioner for Workmen Compensation is empowered to decide about the loss of earning power based on the input available in the evidence. In this case, the Doctor has correctly given the disability and the Commissioner for



Workmen Compensation has also appropriately assessed the loss of earning power. Accordingly, this substantial question of law is answered against the appellants.

7. Since all the Substantial questions of law framed in this appeal are answered against the appellants/Corporation, the Civil Miscellaneous Appeal stands dismissed. Consequently, connected Miscellaneous Petitions are dismissed. No costs.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner for Workmen Compensation,
(Deputy Commissioner of Labour),
Trichy.

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

+1cc to Mr.R.VIJAYA KUMAR Advocate in SR. No.7557

+1cc to Mr.S.DEENADHAYALAN Advocate in SR. No.7855

VSN

JS/MR/22.02.2017/3P-5C

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