



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**CMA(MD)No.901 of 2015
and
MP(MD)Nos.1 & 3 of 2015**

Kirusdhudoss ... Appellant/Respondent
Vs.

1.Solaimalai

2.Jakkammal

3.Palaniammal ... Respondents/Appellants

PRAYER: Civil Miscellaneous Appeal is filed under Section 30(2) of Workmen Compensation Act, 1923 to set aside the order in WC.No.19 of 2009, dated 09.05.2012 on the file of the Deputy Commissioner of Labour, Dindigul.

For Appellant : Mr.J.Gunaseelanmuthiah

For Respondents : No appearance.

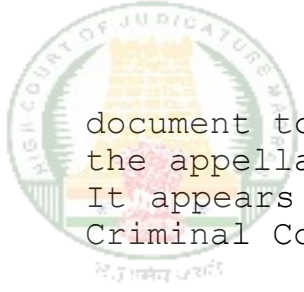
JUDGMENT

One Paramasivam was working as a quarry labour in the quarry located at Mantharai in Kerala State. He met with an accident in the course of his employment on 20.02.2008 at about 10.00 A.M. He died. His parents and sisters filed WC.No.19 of 2009 before the Deputy Commissioner of Labour, Dindigul.

2.In the petition, it was averred that the quarry was run by the appellant Kirusdhudoss. Even though the appellant was served with summons and also filed his counter affidavit, he did not choose to examine himself as a witness. He also did not file any document in support of his defence. Therefore, the Deputy Commissioner of Labour, Dindigul was left with no other option but to proceed on the footing that the averments set out in the WC petition are not controverted. Since it is a death claim, the statutory formula was applied and compensation for a sum of Rs.4,36,320/- was passed. Questioning the said award dated 09.05.2012 made in WC.No.19 of 2009, this appeal has been filed.

<https://hcservices.ecourts.gov.in/hcservices/>

3.This appeal was taken up on a number of occasion. This Court gave a number of opportunities to the appellant to produce



document to show that the quarry was run by somebody else. All that the appellant could produce was a copy of the judgment of acquittal. It appears that the appellant and the land owner were prosecuted by Criminal Court at Kerala.

4.The learned counsel appearing for the appellant produced a copy of the statement given by the land owner before the Assistant Geologist, Kottayam. From a reading of the said statement one can see that the appellant was very much running the said quarry. In any event, the appellant who failed to avail the opportunity given to him by the Deputy Commissioner of Labour, Dindigul, cannot now be heard to contend that opportunity was not given to him.

5.An appeal questioning the award passed under the Workmen Compensation Act, 1923 can be allowed only if a substantial question of law is raised and the same can be answered in favour of the appellant. In this case, no such substantial question of law has been raised or argued. Therefore, I find no merit in this appeal. It stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

1.The Deputy Commissioner of Labour,
Dindigul.

2.The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1cc to M/s.J.Gunaseelanmuthiah, Advocate, SR.No.90744.

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skm

RAM/SV MMS/SAR 4/31.05.2018/2P/5C