



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2017

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRP(PD) (MD) No.440 of 2017

and

CMP(MD) Nos.2154 and 3090 of 2017

P.Gnanasekaran

... Petitioner

vs.

- 1) Tmt.S.Devakani
- 2) S.Silambarasan
- 3) S.Amutha
- 4) Lakshmanan
- 5) L.Amaravathi
- 6) Poosari @ Manikandan
- 7) Palanivel

... Respondents

Petition filed under Article 227 of the Constitution of India, against the order dated 25.10.2016 passed in I.A Diary No.6350 of 2016 in W.C.No.55 of 2012 on the file of the Deputy Commissioner for Workman Compensation, Madurai.

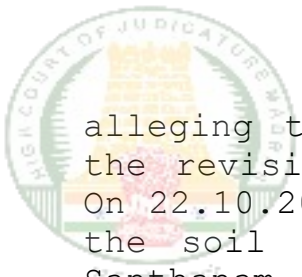
For Petitioner	: Mr.R.Suriyanarayanan
For R1 to R5	: Mr.R.Senthilkumar

ORDER

This revision petition is directed against the return of the petition filed by the revision petitioner to set aside the award of the **(*)Deputy Commissioner for workmen compensation, Madurai** which according to the petitioner is an ex parte award. Whereas, the return endorsement says, 'the award being passed on merits, the application is returned. Appeal to the High Court for redressal'.

2. Aggrieved by that return, the present revision petition is filed under Article 227 of the Constitution, on the ground that instead of taking the application on file, the **(*)Deputy Commissioner for workmen compensation, Madurai** has summarily returned the application without affording an opportunity to effectively defend the claim of the petitioner herein, hence, it is perverse and against the principles of natural justice.

<https://hcservices.ecourts.gov.in/hcservices/> The Respondents 1 to 5 herein are legal heirs of one L.Santhanam. Claim petition for compensation was filed by them



alleging that the said Santhanam worked as Tractor driver under the revision petitioner/1st opposite party in the claim petition. On 22.10.2011, while ploughing the Tractor, Santhanam got stuck to the soil and turtled down resulting in the death of the said Santhanam.

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4. Whereas, the case of the revision petitioner is that there was no employer-employee relationship between him and the deceased Santhanam. The alleged accident occurred not in the field while ploughing, but after completing the work when the deceased tried to mount the Tractor on a 5 feet high ridge against the advise of the bystanders. Further, it was contended that the deceased was employed under the 2nd and 3rd opposite parties who are respondents 6 and 7 herein, for salary.

5. After filing counter, the revision petitioner has remained absent inviting ex parte award on 24.10.2014. Later, the said award has been set aside with costs on specific direction to the parties to complete the trial in three adjournments. Thereafter, at the instance of the revision petitioner, 2nd and 3rd opposite parties were impleaded in the claim petition, who are respondents 6 and 7 herein. The revision petitioner and respondents 6 and 7 have failed to let in evidence on their behalf though the case has been adjourned for several times in a span of 5 months. Thereafter, they were set ex parte. Ultimately, the **(*)Deputy Commissioner for workmen compensation, Madurai** after hearing the counsel for the claimants/respondents 1 to 5 herein, has passed an award on 07.09.2016.

6. The award and the endorsement returning the application to set aside the award perused.

7. Though the revision petitioner filed counter, due to his non-participation in the trial despite adequate opportunity, the **(*)Deputy Commissioner for workmen compensation, Madurai** has rightly proceeded further to pass the award based on the evidence available on record. However, the award as it reads is substantially an ex parte award. Therefore, the return of the application for the reason stated by the **(*)Deputy Commissioner for workmen compensation, Madurai** is erroneous. The **(*)Deputy Commissioner for workmen compensation, Madurai** ought to have taken the application on file and disposed it on merits, after considering whether the reason for non appearance pleaded by the revision petitioner herein, is satisfactorily explained.

8. The learned counsel for the respondents 1 to 5/claimants submits that since 2012, the revision petitioner is successfully protracting the proceedings. The legal heirs of the deceased persons are deprived of due compensation within reasonable time though decree was passed in their favour.



9. This Court while admitting the revision petition, by order dated 07.03.2017, has directed the revision petitioner to deposit Rs.1,50,000/- as condition for grant of interim stay. Since the apprehension of the respondents 1 to 5/claimants that the revision petitioner is bent upon to protract the proceedings endlessly, appears to be prima facie correct as seen from the past conduct of the revision petitioner, it is just and necessary to ensure speed trial of the case as well as no further delay should be caused by the revision petitioners.

10. Hence, the **(*)Deputy Commissioner for workmen compensation, Madurai** is directed to take on file the application to set aside the award dated 07.09.2016, if the revision petitioner deposits a further sum of Rs.1,50,000/- in addition to Rs.1,50,000/- already deposited to the credit of W.C.No.55 of 2012 on or before **(*)07.06.2017**. The application to set aside the ex parte award shall be decided on merits after affording opportunity to both parties.

Accordingly, the Civil Revision Petition is allowed with the above direction. No order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

19/04/2017

**(*)Amendment carried out vide in
Court order dated 02/06/2017**

sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar.

To

To be substituted the order already despatched 28/04/2017

The Deputy Commissioner for Workman Compensation,
Madurai.

+1CC to M/S.R.Suriyanarayanan, Advocate, SR.No. 52876

+1CC to M/S.R.Senthilkumar, Advocate, SR.No. 53042

order made in
CRP(PD) (MD) No.440 of 2017
19.04.2017

nbi