



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP(MD) No. 2514 of 2016 and
CMP(MD).No.11883 of 2016

United India Insurance Company Limited,
SNS Complex, Adayar Telephone Exchange,
LP Road, Adayar, Chennai - 20 : Petitioner
Vs.

Periyakaruppan (died)
1.Nadhiya
2.Minor. Goushalya
(R2 represented by Sister & Next friend R1)
3.The Director
Water Systems India Pvt. Limited,
Thiruvalluvar Nagar,
Kottivakkam, Kancheepuram Dt.
Chennai-600 041
4.The Commissioner,
Thirupathur Municipality,
Thirupathur. : Respondents

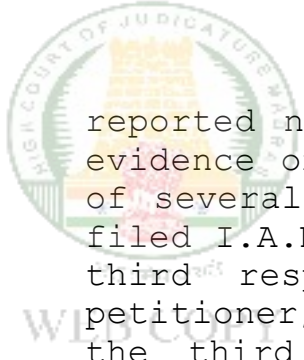
Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 28.04.2016 passed in I.A.No.27 of 2016 in W.C.No.34 of 2013 on the file of the Commissioner for Workmen Compensation, Madurai.

For Petitioner :Mr. V.R. Subramanian
For Caveator :Mr.PT.S.Narendravasan

O R D E R

This Civil Revision Petition is filed against the order dated 28.04.2016 passed in I.A.no.27 of 2016 in W.C.No.34 of 2013 on the file of the Commissioner for Workmen Compensation, Madurai.

2. The petitioner is the second respondent in W.C.No.34 of 2013 on the file of the Commissioner of Workmen's Compensation, Madurai. The respondents 1 and 2, filed W.C.No.34 of 2013, for the death of one Chandra, who was employed under third respondent. The third respondent has taken Insurance policy, with the petitioner in respect of his worker. The petitioner and third respondent filed counter. The evidence of the respondents 1 and 2 was closed. The third respondent did not let in any evidence and



reported no evidence on their behalf. The case was posted for evidence on behalf of the petitioner. The petitioner took number of several adjournments for letting in evidence and subsequently, filed I.A.No.27 of 2016 to implead the fourth respondent herein as third respondent in W.C.No.34 of 2013. According to the petitioner, the fourth respondent is the principal-employer and the third respondent is contractor and the fourth respondent alone as principal employer liable to pay compensation.

3. The learned Judge considering the fact that deceased worker was employed by third respondent and the third respondent has taken insurance Policy with the petitioner for its workers held that, the fourth respondent is not necessary and proper party and dismissed the petition filed by the petitioner.

4. Against the said order of dismissal, the petitioner has filed the present Civil Revision Petition.

5. The learned counsel appearing for the petitioner submitted that the third respondent was doing work at the instance of the fourth respondent and fourth respondent is the principal employer of deceased. Therefore, the fourth respondent is liable to pay compensation to the deceased. The Commissioner of Workmen's compensation without properly appreciating Section 12 of the Workmen's Compensation Act, dismissed the application.

6. The learned counsel for the third respondent, caveator submitted that the third respondent is not doing any work for fourth respondent and third respondent has taken policy with the petitioner for its workers and therefore, fourth respondent is not necessary and proper party. The worker died during the course of the employment of the third respondent. In the circumstances fourth respondent is not proper and necessary party to decide the issue in WC.No.34 of 2013.

7. I have heard the learned counsel appearing for the petitioner and third respondent and perused the materials available on record.

8. From the materials on record it is seen that the deceased was employed by third respondent. The third respondent has taken insurance policy with the petitioner for compensation, for their workers during the course of employment.

9. Considering the fact that the deceased was employed by third respondent and the Insurance Policy has taken by third respondent with petitioner are not denied, the third respondent employer is liable to pay compensation for the death of its worker during the course of employment. In view of this fact that the fourth respondent is not necessary and proper party to W.C.No.34 of 2013.



10. The learned Judge considered all the materials on record in proper perspective and has given cogent and valid reasons for dismissing the Interlocutory Application in I.A.No.27 of 2016 in W.C.No.34 of 2013 on the file of the Commissioner for Workmen Compensation, Madurai. Further, the learned Judge has exercised his power conferred on him properly and there is no irregularity or illegality warranting interference by this Court.

11. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(C)

/True Copy/

Sub Assistant Registrar

To

The Commissioner for Workmen Compensation, Madurai.

+1cc to M/s.V.R.Subramaniam, Advocate SR.No.4645

+1cc to M/S.PT.S.Narendravasan, Advocate SR.No.4698

trp

SM:MR:01.03.2017:3p/4c

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