

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 20.09.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

C.M.A(MD)No.572 of 2011

A.Mohammed Arif

... Appellant/Respondent-1

Vs.

1.Varadharajan

2.Neelavathi

...Respondents /Petitioners

3.T.Gunasekaran

...Respondent/Respondent-2

PRAYER:-Civil Miscellaneous Appeal is under Section 30 of Workmen Compensation Act, 1923, to set aside the fair and decreetal order dated 15.10.2010 (served on the appellant on 01.04.2011) made in W.C.No.372 of 2007 by the Commissioner, Workmen Compensation Act (Deputy Commissioner of Labour), Trichy and allow this appeal.

For appellant : Mr.R.Vijayakumar
For respondents 1 &2 : Mr.P.Sesubalan Raja
For respondent - 3 : Mr.A.K.Baskara Pandian

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/respondent-1, to set aside the fair and decreetal order dated 15.10.2010 made in W.C.No.372 of 2007 by the Commissioner, Workmen Compensation Act, 1923, (Deputy Commissioner of Labour), Trichy.

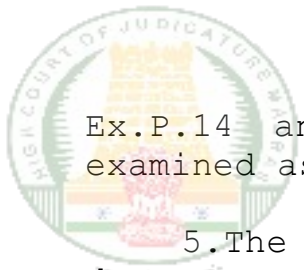
3.It is a case of a fatal accident, which took place on 18.06.2015, on the premises of the appellant/first respondent.

2.The case of the petitioners before the Commissioner under the Workmen Compensation Act, 1923, is that the deceased was working as a Carpenter under the third respondent. On 18.06.2005, after completion of work, the appellant asked the deceased to pluck the mangoes from the trees and informed that he would pay for the same. Hence, the deceased climbed the tree, while plucking the mangoes, he fell down and sustained fracture in hip and legs, despite treatment, he died on 18.05.2007.

3.The petitioners filed applications in W.C.No.372 of 2007, before the Commissioner under Workmen Compensation Act, Trichy / Deputy Commissioner of Labour, seeking compensation.

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

4.Before the Commissioner, the petitioners examined one witness as P.W.1 and marked fourteen documents as Ex.P.1 to



Ex.P.14 and on the side of the respondents one witness was examined as R.W.1.

5.The Commissioner, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also on appreciating the evidence on record, held that the accident had occurred while the deceased was working as a labourer under the appellant/first respondent and directed the appellant/first respondent to pay a sum of Rs.4,52,910/- to the petitioners.

6.Against which the appellant/first respondent filed this appeal to set aside the award.

7.While so, when the matter was taken on 20.09.2017, a joint compromise memo, signed by the parties on either side has been submitted stating the matter has been settled among the parties.

8.Recording the joint compromise memo, this Civil Miscellaneous Appeal is closed and the respondents/petitioners are permitted to withdraw a sum of Rs.2,26,500/- out of the amount deposited by the appellant/first respondent and the remaining amount shall be paid back to the appellant/first respondent. The joint compromise memo shall form a part and parcel of this judgment. No Cost. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

(Encl. Xerox copy of Joint Compromise Memo)

1. The Commissioner,
(Under Workmen Compensation Act) /
Deputy Commissioner of Labour, Trichy.

Copy to:

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

+1cc to Mr.P.SESUBALAN RAJA, Advocate, SR.No.79991.

+1cc to Mr.R.VIJAYAKUMAR, Advocate, SR.No.80079.

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