

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2018

CORAM: THE HONOURABLE MR. JUSTICE N. SESHASAYEE

C.M.A.NO.1051 OF 2015

AND

M.P.NO.1 OF 2015

Union of India,
Represented by
The Divisional Railway Manager,
Southern Railway,
Chennai - 600 003.

...Appellant

Versus

Tmt.P.Shanthkumari

...Respondent

This Civil Miscellaneous Appeal is filed under Section 30 of W.C.Act, 1923 praying to set aside the order made in W.C.No.265 of 2008 on the file of the Deputy Commissioner of Labour - II, for workman compensation Commissioner - II, Chennai dated 24.05.2013.

For Appellant : Mr.M.Vijay Anand

For Respondent : Mr.J.Muthukumaran

JUDGMENT

An employee of the Railways, named Balasubramani had died on 05.11.2001. His widow approached the Deputy Commissioner, Workman Compensation in W.C.No.265 of 2008 for compensation. She has been granted compensation. This is challenged by the Railways in this Appeal.

2. Mr.M.Vijay Anand, the learned counsel appearing for the appellant submitted that Balasubramani did not die in the course of employment and that he had died after his shift, and the Tribunal had wrongly found that he died during the course of employment. In support of his submissions, the learned counsel would submit that Balasubramani's shift concluded at 07:00 a.m on the fateful day, but he had died only at 10:15 a.m.

3. A perusal of an order of the Tribunal below, it is seen that this point has been pointedly discussed by the Deputy Commissioner of Labour, wherein he would say that under Ex.A7,

the Supervisory Report of the appellant, a statement is made that the employee had died at 06:50 a.m and not at 10:15 a.m and that only FIR was registered at 10:15 a.m.

4. Heard the learned counsel for the respondent and perused the records of the Tribunal.

5.1. After hearing both sides, the following substantial questions of law are framed for consideration.

- Whether the tribunal misconstrued the time of accident from Ex.B2 report filed by the appellant?
- Whether the tribunal is correct in holding that the deceased was on duty on 05.11.2001 when the fatal accident took place is contrary to the evidential proof Ex.B1 coach history?

5.2. On perusing Ex.A1, the FIR, along with Ex.A7, this Court is satisfied that the reasonings given by the Tribunal are correct. Ex.A7 is a Supervisory Report given by the Senior Section Engineer, Avadi and in his statement, it is said that on 05.11.2001, at about 06:50 a.m, Thiru.T.Balasubramani was accidentally ran over by a train and was crushed to death when he was on special duty to watch a derailed EMU Coach No.12099. No material apparently was produced to negate the correctness of the statement made in Ex.A7. Turning to Ex.A1 (FIR), the other relevant document relied on by the appellant, it shows that at 10:15 a.m, information about the accident was received. Nowhere it says that the accident itself had taken place at 10:15 a.m. The Railways itself does not have any material to impress upon this Court that its own Official, namely its Senior Section Engineer, Avadi, has made a false statement in Ex.A7. Accordingly, the above substantial questions of law are answered in favour of the respondent.

6. There is nothing left for this Court to consider and accordingly, this Court finds no merit in this Appeal, and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mrr

To

The Deputy Commissioner of Labour - II,
for workman compensation Commissioner - II,
Chennai.

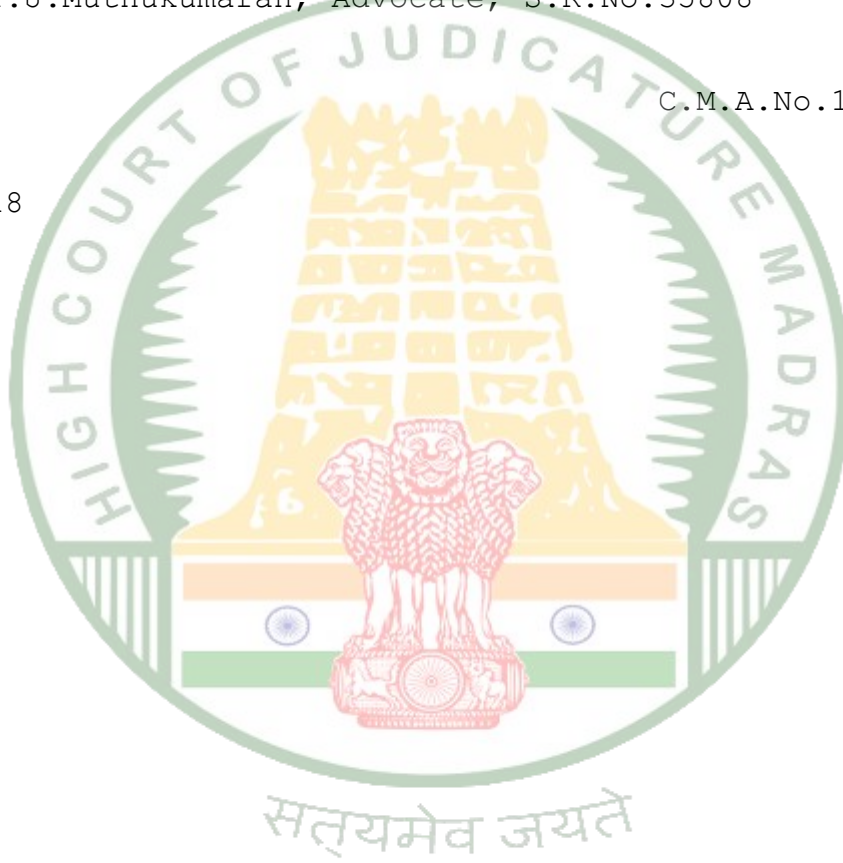
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+1cc to Mr.M.Vijay Anand, Advocate, S.R.No.35736

+1cc to Mr.J.Muthukumaran, Advocate, S.R.No.35808

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RV(CO)
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