

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.06.2018

CORAM

THE HONOURABLE Mrs.JUSTICE S.RAMATHILAGAM

C.M.A.No.1740 of 2011

and

MP.No.1 of 2011

Gupta ,
Proprietor,
M/s.Innovative and Innovators (P) Ltd.,
Sooramangalam, Pondichery. ... Appellant/Respondent

Versus

Lakshmi @ Padmini ... Respondent/Claimant

Civil Miscellaneous Appeal filed under Section 30 of the Workman Compensation Act, 1923, against the Order of the Additional Commissioner for Workmen Compensation, Puducherry made in W.C.No.43 of 2005 dated 25.02.2010

For Appellant : Mr.A.Bala Subramanian
for Mr.K.S.Narayanan

For Respondent : No Appearance

JUDGMENT

This appeal has been directed against the Order passed by the learned Additional Commissioner for Workmen's Compensation Act, 1923 in W.C.No.43 of 2005, awarding a sum of Rs.1,41,120/- with interest at 12% p.a. towards compensation payable to the respondent/workman in respect of the accident occurred to her out of and in the course of her employment on 4.2.2005.

2. The brief facts of the case are that the respondent/claimant was working in the appellant's factory for about five months continuously and her job was manufacturing room sprayer by filling gas in the aluminum bottle. On the fateful day, ie., 04.02.2005 at 1.30 p.m., when the respondent/claimant was on her work and during the course of her employment, the gas cylinder had suddenly leaked out and

splashed over the respondent/claimant and caught fire. Due to the said accident, she had sustained severe burn injuries all over her body and she was immediately taken to the hospital for treatment and a surgery also done on her and she was discharged on 16.03.2005 i.e., after 40 days of treatment and she has been under treatment even on the date of claim petition. An F.I.R was also registered in the Nettapakkam Police Station. Claiming compensation at Rs.8,00,000/-, the respondent/claimant has filed a claim petition before the Additional Commissioner for Workmen's Compensation, Puducherry.

3. On evaluation of both oral and documentary evidence and on hearing both sides, the learned Additional Commissioner for Workmen's Compensation, Puducherry, has come to a conclusion that that the respondent/claimant is a working woman and she met with an accident which arose out of and in accordance with her employment and she is entitled for compensation under Workmen's Compensation Act and accordingly, after calculation, awarded a sum of Rs.1,41,120 with interest at 12% p.a. with effect from the date of the claim petition till the date of payment.

4. Challenging the award, the learned counsel appearing for the appellant has contended that the respondent/claimant was only a trainee and there exists no relationship of employer and employee between the appellant and the respondent/claimant and the Commissioner under the Workmen's Compensation Act has exceeded its jurisdiction in passing the award in favour of the claimant. It is further contended that the Addl. Commissioner under the Workmen's Commissioner Act has committed serious error or illegality in determining the amount of compensation payable to the claimant by taking her age and wages at Rs.100/- per day whereas, she is only a trainee helper being paid wages Rs.25/- per day. It was also contended that the accident has resulted because of negligence of the respondent/claimant herself and that no medial witness was examined to prove the assessment of the disability under Ex.C1 and therefore, she was not entitled to any compensation under the provisions of Workmen's Compensation Act, 1923.

5. This Court has given its thoughtful consideration to the submissions made by the learned counsel for the appellant.

6. At the outset, it is pertinent to note that an appeal against the award of Commissioner under Workmen's Compensation Act, awarding compensation to the claimant does lie to this Court only where a substantial question of law does arise therein. On going through the entire materials placed before this Court and contentions raised by the learned counsel for the appellant, this Court is of the view that the said contentions

can be taken to be only questions of law or fact and not the substantial questions of law to entertain this appeal. It is not in dispute that the respondent/claimant has been engaged in work, of-course, according to the appellant as a trainee. Under the provisions of the Act, the respondent/claimant is entitled for compensation for the injury caused to her as a result of the accident arising out of and in the course of her employment with the appellant. The respondent/claimant has averred that she was aged about 20 years at the time of accident and was being paid Rs.100/- per day. In fact, in order to disprove the claim of the respondent/claimant, on behalf of the appellant, no witness was examined nor any documents were marked. Hence the learned Commissioner has considered her monthly wages at Rs.3000/- per month and determined the age of the claimant as 20 and the extent of disability at 35% as per Ex.C1 assessed by the Medical Superintendent, Government General Hospital, Puducherry and determined the total compensation at $3000 \times 60 / 100 \times 35 / 100 \times 224 = 1,41,120/-$.

7. From the judgment of the Addl. Commissioner of Workmen's Compensation, I find that it is a case where due to the accident which arose out of and in the course of employment, the injury sustained by the respondent/claimant resulted in her permanent total disablement. This finding of the Commissioner for Workmen's Compensation has not been challenged by the appellant in this appeal. Whatever exception is provided for relieving of the employer from his liability to pay the compensation to his workman for personal injury caused to him by an accident arising out of and in the course of his employment otherwise also cannot be made available to the appellant. Therefore, the award passed by the Additional Commissioner for Workmen's Compensation, Puducherry does not require any interference of this Court and the same is hereby confirmed.

8. The net result of the aforesaid discussion is that this appeal has no force and the same is liable to be dismissed. Accordingly, the Civil Miscellaneous Appeal is dismissed. Consequently, connected Civil Miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

suk

To

1. The Additional Commissioner for Workmen Compensation,
Puducherry
2. The Section Officer, VR Section,
High Court, Madras.

C.M.A.No.1740 of 2011

GMV (15/10/2018)



WEB COPY