

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2018

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

C.M.A.No.2658 of 2017

and

C.M.P.Nos.14670 & 15398 of 2017

P.C.Mathi

S/o.ChandraMouli

... Appellant/1st Opposite Party

Vs

1.E.Ramachandran

S/o.Ettiappan

... 1st Respondent/Applicant

2.P.L.U.Ranganathan

S/o.P.L.Udayappan

... 2nd Respondent/2nd

Respondent

3.The Hon'ble Commissioner

Workmen's Compensation - II

Teynampet, Chennai - 600 006.

... 3rd Respondent/Authority

Prayer: Civil Miscellaneous Appeal filed under section 30 of workmen's compensation Act to call for the records in W.C.No.305 of 2014 and set aside the order, dated 18.10.2016 passed by the third respondent/The Commissioner of Workmens' compensation-II, Teynampet, Chennai in W.C.No.305 of 2014.

For Appellant : Mr.R.Purushothaman

For Respondents : Mr. R.Ramesh

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the employer against the award of the Commissioner of Workmens' compensation-II in the claim petition filed by the first respondent claiming compensation for the death of his son Rajasekar on 31.07.2013, while he was working as contract worker in the second respondent's company. Though a sum of Rs.20 lakhs was claimed as compensation, the Commissioner of Workmens' compensation-II determined the compensation payable at

Rs.7,13,879/- by an award, dated 18.10.2016. The said order is challenged before this Court raising the following substantial question of law.

1.Whether in Law the authority was right in coming to the conclusion that the appellant was the principal employer of the deceased while there is nothing on record to show that he was employed under 2nd respondent and died during course of the employment?

2.Whether in Law the authority was right in setting the 2nd respondent ex-parte since as per the petition filed by the 1st respondent he was working under him for the past 8 years and nothing on record to show that he was an employee of the 2nd respondent?

2.Heard the parties and perused the records.

3.A perusal of the substantial question of law would show that they are not substantial questions of law but they are only the question of facts. The Commissioner of Workmens' compensation-II had determined the compensation only based on the evidence. However, both the appellant and the first respondent and their respective counsels had arrived at a settlement and the same is reflected in the joint memo of compromise, dated 27.02.2018 filed before this Court.

4.Today both the parties are also present before this Court. The first respondent had agreed to receive a sum of Rs.5,75,000/- as full and final settlement towards his claim against the appellant and the appellant is also agreeable to pay the said amount to the first respondent. As the award amount of Rs.7,13,879/- had already been deposited before the Tribunal to the credit of W.C.No.305 of 2014, in view of the settlement arrived at between the parties, the first respondent is permitted to withdraw a sum of Rs.5,75,000/- being the amount agreed by him towards his claim and the balance amount is directed to be returned to the appellant within a period of ten days from the date of receipt of a copy of this order.

5.Thus, the Civil Miscellaneous Appeal is disposed of in terms of the joint memo of compromise. The joint memo of compromise dated 27.02.2018 shall form part of the order. Consequently connected miscellaneous petitions are closed. No costs.

Xerox copy of Joint Memo of Compromise attached

Sd/-

Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

pgp

To

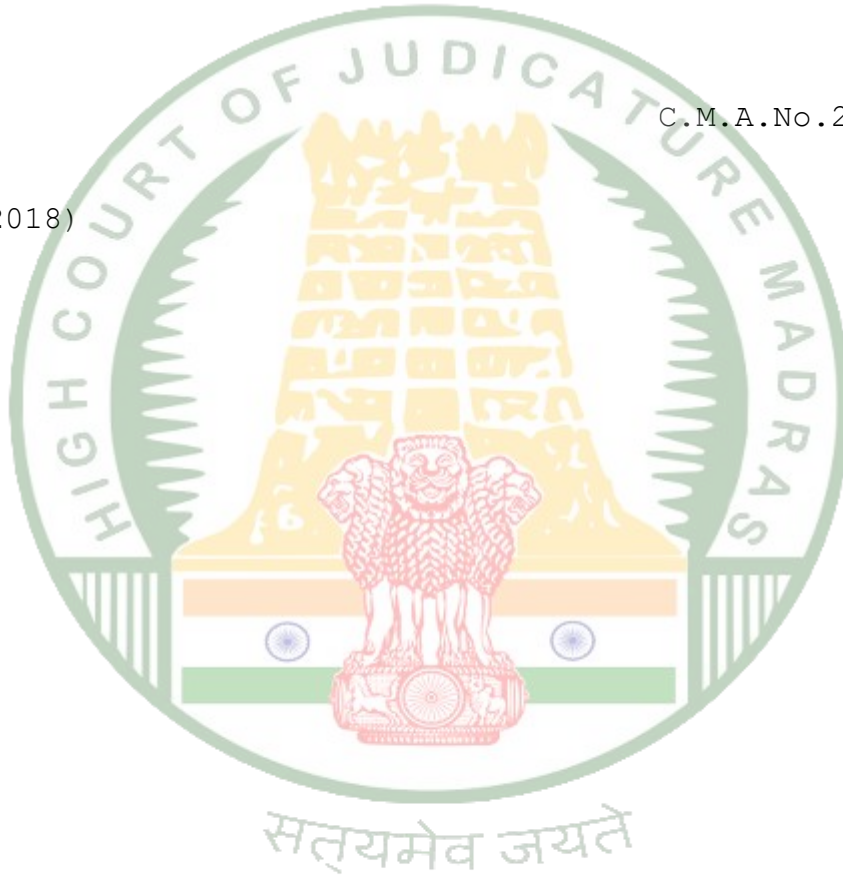
The Commissioner,
Workmen's Compensation II,
Teynampet, Chennai - 600 006.

+1cc to Mr.R.Ramesh, Advocate SR.No.14895

+1cc to Mr.R.Purushothaman, Advocate SR.No.15006

C.M.A.No.2658 of 2017

PVS (CO)
GN(01/03/2018)



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