

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.3221 of 2013
and M.P.No.1 of 2013

Maniarasan

... Appellant/1st Respondent

Vs.

1. E.Ekambaram

... Respondent/Claimant

2. Palani

3. Karpagam

4. The Block Development Officer,
Vallam Panchayat Union,
Vallam, Gingee Taluk,
Villupuram District.

5. The District Collector,
Villupuram District,
Villupuram.

...
Respondents/Respondents 2 to 5

Prayer : Civil Miscellaneous Appeal filed under Order 30 of the Workmen's Compensation Act, 1923, against the order dated 09.07.2012 in W.C.No.538 of 2008 on the file of the Commissioner for Workmen Compensation (Deputy Commissioner of Labour-II) Teynampet, Chennai - 600 006.

For Appellant : Mr.R.Rajarajan

For Respondent : Mr.K.Varadhakamaraj

J U D G M E N T

Aggrieved over the award passed by the Commissioner for Workmen Compensation (Deputy Commissioner of Labour-II) Teynampet, Chennai, in W.C.No.538 of 2008, dated 09.02.2012, the immediate employer has come before this Court with this Civil Miscellaneous Appeal.

2. According to the appellant, the authority has failed to consider the issue of employer-employee status before going into the other aspects of the claim petition.

3. Before the Tribunal, in support of the claim, the claimant has examined two witnesses as W.W.1 and W.W.2 and marked documents from Exs.W1 to W8. On the side of the respondents, none were examined and no documents were marked.

4. The admitted fact is that the appellant is an immediate employer and the authority, while deciding the compensation, has relied on Ex.W3 and Ex.W6 and came to the conclusion that the appellant is a contractor and has engaged the claimant in construction work. The reply notice was given by the appellant vide Ex.W6, and it is admitted that the claimant was employed under him.

5. Even though the learned counsel appearing for the appellant would contend that the immediate employer was only a Government contractor, under whom, the claimant was working, such contention is not sustainable in law, as the employee was directly employed under him and therefore, the compensation shall be paid only by the immediate employer. Even assuming the principal employer is directed to pay compensation, he would be entitled to recover the same from the immediate employer.

6. Therefore, I do not find any discrepancy or infirmity in the order passed by the Commissioner for Workmen Compensation (Deputy Commissioner of Labour-II) Teynampet, Chennai, in W.C.No.538 of 2008, dated 09.07.2012. The Appeal has no merit for consideration and accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

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To

The Deputy Commissioner of Labour - II
(Commissioner for Workmen's Compensation - II)
Teynampet, Chennai-6.

+ 1 cc to Mr.K.Varadhakamaraj Advocate,SR.4050

+ 1 cc to M/s.G.Rajan, Advocate,SR.4165

C.M.A.No.3221 of 2013
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nr 25/04/2018