



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

C.M.A. (MD) No.150 of 2018

and

C.M.P. (MD) No.2181 of 2018

M/s.Raja Agency

Represented by its Managing Director ... Appellant / Respondent

Vs.

Madasamy

... Respondent / Claimant

PRAYER: The Appeal filed under Section 30(1) of Workman's Compensation Act, against the order dated 27.04.2017 in W.C.No.35 of 2008 on the file of the Deputy Commissioner of Labour Court, Tirunelveli.

For Petitioner : Ms.B.Asha

JUDGMENT

The following issues are raised by the learned Counsel for appellant:

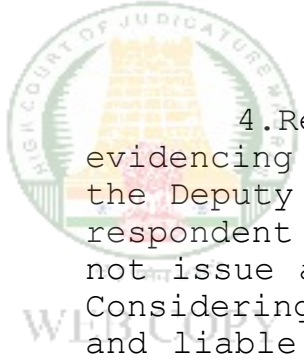
a. There is no employer-employee relationship between the appellant and the claimant.

b. No medical bill was produced by the claimant before the Court below to prove treatment taken by claimant.

c. The claimant has admitted that he was engaged by the contractor. Hence the conclusion that the appellant is liable as the employer is perverse.

2.The respondent herein as petitioner filed a petition before the Deputy Commissioner of Labour under Section 3 of Employee's Compensation Act for awarding compensation. It is the case of the respondent that while working as a load man for the appellant establishment he suffered a fracture above his left thigh on 26.02.2007. It is his further case that as a result of such accident, the respondent suffered permanent disability and that he was unable to do any work after the accident. Though it is admitted by the respondent that the appellant spent for the treatment after admitting him in a hospital, it is contended that the appellant is liable to compensate the respondent for the loss.

3.The petition was contested by the appellant by stating that the appellant had entrusted the work of loading and unloading their goods in Tuticorin Port to one Sakthi, a labour contractor and that the respondent is therefore not an employee of appellant, as there is no relationship as employer and employee. The accident is also disputed by the appellant.



4. Relying upon the identity card issued to the respondent evidencing the fact that the respondent is engaged by the appellant, the Deputy Commissioner of Labour, Tirunelveli, accepted the case of respondent that he was an employee of appellant. The appellant did not issue any reply after receiving the notice from the respondent. Considering the fact that the appellant is the principal employer and liable to pay compensation by virtue of Section 12 of the Act, the Deputy Commissioner of Labour held that the appellant is liable. Taking into account the age of respondent as 36 and based on the disability certificate issued by the doctor, who was examined as PW2, permanent disability was arrived at 52%. Adopting the minimum wages applicable to loadmen, the daily wages was fixed at Rs.109/-. Thereafter applying the formula, the compensation payable to the respondent was arrived at Rs.1,98,580/- by the Deputy Commissioner of Labour, the appropriate authority under the Employee's Compensation Act, 1923.

5. It is submitted by the learned Counsel for the appellant that the Tribunal / Deputy Commissioner (Labour), ought not have given the relief to the respondent, when it is not proved that he was an employee of the appellant.

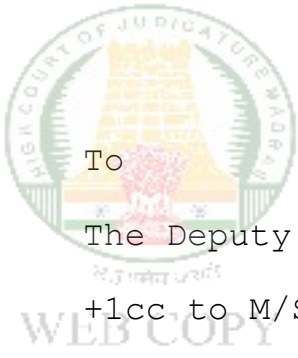
6. The Court below has gone into the factual details pertaining to the issues raised by the appellant and found that the claimant was an employee of the appellant. It is also admitted by the appellant that the claimant was engaged by a contractor. The Deputy Commissioner (Labour), relying upon the identity card issued by the competent authority, has decided the issue in favour of the claimant. The fact that the appellant is liable as a principal employer cannot be disputed. With regard to the quantum of compensation, the Tribunal has decided the compensation on the basis of disability certificate, age certificate and other factors, which are relevant to decide the issue.

7. The Tribunal has applied its mind and given a categorical finding on the basis of material documents, with regard to the employer-employee relationship between the appellant and the claimant. With regard to the quantum of compensation, the amount awarded is on the basis of the formula prescribed in the Act. Therefore, this Court do not find any questions of law in this appeal. Hence this appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar



To

The Deputy Commissioner of Labour Court, Tirunelveli.

+1cc to M/S.B.Asha, Advocate SR.No. 55063

C.M.A. (MD) No.150 of 2018
12.03.2018

cmr

JM/KK/SAR 4/16.04.2018/3P/3C