



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2018

CORAM

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THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

W.P.(MD) No.2262 of 2018,
C.R.P.(MD) (NPD) .No.181 of 2018
and C.M.P.(MD) No.796 of 2018

W.P. (MD) No.2262 of 2018 :

Saraswathi

... Petitioner

-vs-

1.The District Collector,
Karur District, Karur.

2.The Deputy Commissioner,
Labour Workman Compensation Tribunal,
Dindigul, Dindigul District.

3.The Tahsildar,
Manmangalam Taluk,
Karur District.

4.Nallusamy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent to proceed the communication in Na.Ka.No.A6/3165/2017 dated 11.10.2017 and to recover the compensation amount to the tune of Rs.3,81,151/- (Rupees Three Lakhs Eighty One Thousand One Hundred and Fifty One Only) and they are also further awarded 12% simple interest from the date of accident (i.e.,) on 12.03.2005.

For Petitioner	: Mr.P.Dhanasekaran
For R1 and R3	: Mrs.VPM.Vaishnavi Govt. Advocate.
For R4	: Mr.T.Antony Arul Raj

C.R.P. (MD) (NPD) .No.181 of 2018 :



-vs-

1. Tmt.Saraswathi
 2. Minor.Manimegalai
 3. Minor.Manivel
 4. Tmt.Periyakkal
- ... Respondents/Respondents/Petitioners
(R2 & R3 represented through their Guardian/Mother)

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the award dated 18.12.2014 made in I.A.No.13 of 2013 in W.C.No.132 of 2007 on the file of the Workman Compensation Tribunal, Dindigul.

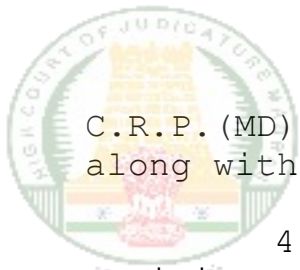
For Petitioner : Mr.T.Antony Arul Raj
For Respondents 1to 3 : Mr.P.Dhanasekaran
For R4 : No Appearance

COMMON ORDER

The parties are described as per the nomenclature assigned to them in the writ petition, in which the petitioner sought a direction to the 3rd respondent to act upon the communication issued by the 2nd respondent in Na.Ka.No.A6/3165/2017 dated 11.10.2017 and to recover the compensation amount to the tune of Rs.3,81,151/- (Rupees Three Lakhs Eighty One Thousand One Hundred and Fifty One Only) with interest at the rate of 12% interest from the date of accident, namely, 12.03.2005.

2. The facts in brief is that the petitioner's husband worked as JCB Driver under the 4th respondent and on 12.03.2005, on the direction of the 4th respondent, he had gone to purchase diesel in a vehicle bearing Reg.No.TN-45-D-5677 and at that time, a lorry dashed against her husband's vehicle, which resulted in the death of her husband on the spot. Since her husband worked in the company of the 4th respondent, she had filed a petition in W.C.No.132 of 2007, claiming compensation under the Workmen Compensation Act before the 2nd respondent, in which the 4th respondent remained absent and therefore, an exparte order was passed, directing the 4th respondent to pay Rs.3,81,151/- as compensation to the petitioner within 30 days with 12% simple interest.

3. Aggrieved by the said exparte order, the 4th respondent had filed an application in I.A.No.13 of 2013 to condone the delay in filing a petition for setting aside the exparte order, before the 2nd respondent and the application came to be dismissed, thereby the award passed in W.C.No.132 of 2007 was affirmed. Against the said order, the 4th respondent has filed a separate



C.R.P. (MD) No.181 of 2018 before this Court, which has been tagged along with the writ petition for common disposal.

4. In the meanwhile, prior to numbering the Civil Revision Petition, the 2nd respondent had sent a communication to the 3rd respondent for taking action to recover the compensation amount from the 4th respondent for deposit in the account of the 2nd respondent. Pursuant to the inaction on the part of the 3rd respondent, the petitioner has filed the writ petition for suitable direction.

5. Heard the learned counsel on either side both in the writ petition and the Civil Revision Petition and also perused the material documents available on record.

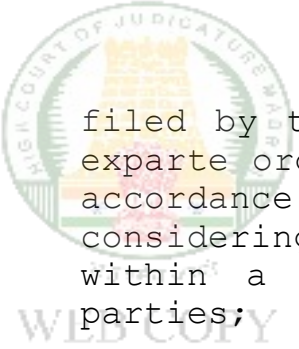
6. It is seen that aggrieved by the exparte Award passed by the Deputy Commissioner of Labour, the 4th respondent in the writ petition sought to file a petition for setting aside the same, but due to the delay of 238 days in filing such petition, he had filed an application for condonation of the delay, which was rejected by the 2nd respondent in the writ petition. It is no doubt true that the Court must be liberal in considering the petition for condonation of delay, but at the same time, it is to be noted that the Hon'ble Supreme Court in the case of Improvement Trust, Ludhiana v. Ujagar Singh and others, reported in **2010 (6) SCC 786**, has held that while considering an application for condonation of delay, no straitjacket formula is prescribed to come to the conclusion, but to see that if sufficient and good grounds have been made out or not. It has been further stated therein that each case has to be weighed from its facts and the circumstances in which the party acts and behaves.

7. A perusal of the averments in the application filed by the 4th respondent / employer would disclose that since he was taking treatment for his jaundice disease, he was unable to contact his Advocate and give instructions to file counter in the claim petition. Therefore, this Court could be able to see some reasonableness in the contention raised by the petitioner in the civil revision petition and therefore, this Court is of the view that the petitioner in CRP can be given one more opportunity to contest the claim petition so as to render justice to both parties.

8. In the result,

a) the Civil Revision Petition is allowed and the award dated 18.12.2014 made in I.A.No.13 of 2013 in W.C.No.132 of 2007 on the file of the Workman Compensation Tribunal, Dindigul, is set

b) the Tribunal is directed to number the application



filed by the employer / petitioner in CRP for setting aside the exparte order and pass appropriate orders thereon on merits and in accordance with law, after notice to either parties and after considering the objections, if any to be filed by the parties, within a period of one week from the date of appearance of parties;

c) it is made clear that in the event of allowing the application filed for setting aside the exparte award, the Tribunal shall dispose of W.C.No.132 of 2007 within a period of one month from the date of passing orders in the said application.

9. In view of allowing the Civil Revision Petition, there is no need to pass any order in the writ petition and therefore, the writ petition is closed. No costs. Consequently, connected C.M.P.(MD) No.796 of 2018 is also closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-I)

To:

1.The District Collector,
Karur District, Karur.

2.The Deputy Commissioner,
Labour Workman Compensation Tribunal,
Dindigul, Dindigul District.

3.The Tahsildar,
Manmangalam Taluk,
Karur District.

+ 1 CC TO Mr.I.VEL PRADEEP, ADVOCATE IN SR No. 67240
+ 2 CC TO Mr.P.DHANASEKARAN, ADVOCATE IN SR No. 67291

STS
TE/RP/SAR-1 : 02/08/2018 : 4P/7C

W.P.(MD) No.2262 of 2018 and
C.R.P.(MD) (NPD) .No.181 of 2018
07.06.2018