



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

W.P.(MD).No.917 of 2015

Kalimuthu

... Petitioner

Vs.

1.The Commissioner of Workmen Compensatin,
(Deputy Commissioner of Labour),
Trichirappalli.

2.The Branch Manager,
Oriental Insurance Company,
No.90-A, Thuriyur Road,
Namakkal.

3.Marappan

... Respondents

PRAYER: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the respondents 1 and 2 implement the award passed in W.C.No.200 of 2009 dated 09.01.2013 pursuant to the proceedings A4/5523/13 dated 26.07.2013 on the file of the first respondent herein.

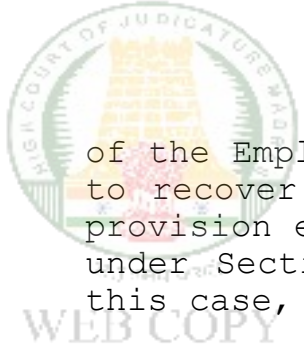
For Petitioner : Mr.V.Illanchezian
For R1 : Mr.Aayiram K.Selvakumar
Additional Government Pleader
For R2 : Mr.K.Bhaskaran

ORDER

The writ petitioner is the claimant in W.C.No.200 of 2009 on the file of the first respondent herein. An award was passed on 04.01.2013. Joint and several liability have been fastened on the respondents 2 and 3 herein. Since, fruits of the award are yet to be realised, this writ petition has been filed by the claimant.

2.When the matter was taken up for hearing, the learned counsel appearing for the second respondent submitted that they have filed a reopen petition before the first respondent. It appears that in view of the pendency of the writ petition, the said reopen application has not been disposed of.

3.The fact remains that as on date an enforceable award in favour of the petitioner herein is on record. Merely because a reopen application has been filed by the second respondent herein, the award need not be kept indefinitely pending. Under Section 31



of the Employees Compensation Act, 1923, the Commissioner is obliged to recover the award amount as an arrear of land revenue. The said provision empowers the Commissioner to proceed to recover the arrear under Section 5 of the Tamil Nadu Revenue Recovery Act, 1864. In this case, this power has not yet been invoked.

4. Therefore, the claimant is constrained to approach this Court. Hence, the first respondent is directed to implement the award made in W.C.No.200 of 2009 dated 09.01.2013, pursuant to the proceedings dated 26.07.2013, issued by him. The entire proceedings shall be concluded within a period of 12 weeks from the date of receipt of a copy of order.

5. Accordingly, this writ petition is allowed. No costs.

Sd/-

Assistant Registrar(AD-I)

/True Copy/

Sub Assistant Registrar(CS-II)

To

The Commissioner of Workmen Compensation,
(Deputy Commissioner of Labour),
Trichirappalli.

+1CC to Mr.K.Bhaskaran, Advocate, SR.No.94785

+1CC to Mr.V.Illanchezian, Advocate, SR.No.94484

W.P. (MD) .No.917 of 2015
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PNN

ES/SKN/RSK/SAR 2/04.12.2018/2P/4C