



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A. (MD) No.769 of 2013

and

M.P. (MD) No.1 of 2013

M/s.M.S.S.Spinners Private Limited  
rep.by its Managing Director  
No.60, Udumalai-Palani Road  
Sukamanayakkampatti  
Palani Taluk

... Appellant / Petitioner

-vs-

1. The Assistant Director  
Sub Regional Office (Madurai)  
Employees' State Insurance Corporation  
4th Main Road, K.K.Nagar  
Madurai-625 020

2. The Branch Manager  
Branch Office  
Employees' State Insurance Corporation  
Dindigul

... Respondents / Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 10.10.2011, made in W.P.(MD) No.4253 of 2007.

Prayer in WP(MD). 4253/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records pertaining to the impugned proceedings in No. 57-R/13/12(A)/Sec. 68/2006-PDB dated 23/02/2007 issued by the 1st respondent and quash the same.

For Appellant : M/S.K.Hema Karthikeyan

For Respondents : Mr.R.Ravindran

**J U D G M E N T**

**[Judgment of the Court by K.RAVICHANDRABAABU, J.]**

WEB COPY This writ appeal is directed against the order, dated 10.10.2011, made in W.P.(MD) No.4253 of 2007.

2. The appellant herein is the writ petitioner. They challenged the order of the first respondent, dated 23.02.2007, before the Writ Court, whereby and whereunder a sum of Rs.2,39,985/- (Rupees two lakhs thirty nine thousand nine hundred and eighty five only) being the capitalised value of the permanent disablement benefit, was ordered payable to the injured, namely, one Thenmozhi. The Writ Court, by order dated 10.10.2011, dismissed the writ petition on the ground that the writ petitioner is having an effective alternative remedy of appeal under Section 75 of the E.S.I.Act before the E.S.I.Court. The learned Single Judge also pointed out that the writ petition is liable to be dismissed even on the ground that the same was filed without even impleading the concerned workman, who got injured, as a party respondent.

3. The learned counsel appearing for the appellant submitted that as the Writ Court has not gone into the merits and decided the case, the appellant may be permitted to file an appeal before the E.S.I.Court and contest the same on merits.

4. A perusal of the order passed by the Writ Court would go to show that the same was dismissed only on the ground that the writ petitioner has filed the writ petition without exhausting the alternative remedy of appeal before the E.S.I.Court. Now, the appellant seeks liberty to file such an appeal. Since the matter has to be considered and decided by the next fact finding authority, namely, E.S.I.Court, we are inclined to dispose of the writ appeal by granting liberty to the appellant to file an appeal before the E.S.I.Court, however, subject to the following terms:

- (a) The appellant shall deposit a further sum of Rs.1,00,000/- (Rupees one lakh only) (apart from the amount already deposited by them during the pendency of the writ appeal) before the first respondent, within a period of four weeks from the date of receipt of a copy of this Judgment.
- (b) On such deposit, the appellant is entitled to file an appeal before the E.S.I.Court, within a period of two weeks thereafter.
- (c) If any such appeal is filed in compliance of this Judgment, the E.S.I.Court shall consider the same on merits and pass orders in accordance with



law, without reference to the period of limitation, if any.

5. With the above directions, the writ appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To:

1. The Assistant Director,  
Sub Regional Office (Madurai),  
Employees' State Insurance Corporation,  
4th Main Road, K.K.Nagar,  
Madurai-625 020.

2. The Branch Manager,  
Branch Office,  
Employees' State Insurance Corporation,  
Dindigul.

+ 1 cc TO M/S.Hema Karthikeyan , Advocate in SR No. 69095  
+ 1 cc TO Mr.R.Ravindran , Advocate in SR No. 68701

krk  
AE/SKN RSK/SAR4/02.07.2018/3P/5C

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