

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 10933 of 2004

ORDER:

1. This writ petition is filed by the petitioner seeking to issue a writ of Mandamus declaring the action of the 1st respondent in passing impugned order dated 20.3.2004, which was received on 31.5.2004 in W.C.No.18 of 2003, as arbitrary, illegal and unconstitutional and to set aside the impugned order dated 20.3.2004 in W.C.No.18 of 2003 on the file of the 1st respondent.

2. Heard Sri J. Ramachandra Rao, learned Counsel for the petitioner; Smt. A. Anasuya, learned Counsel for respondent No.3 and Sri T. Ramulu, learned Counsel for the 2nd respondent.

3. It is the case of the petitioner that it is a registered company under the Companies Act and the petitioner is engaged in the business of undertaking civil contracts and developing the properties. The son of the 3rd respondent was employed with the petitioner as Mason and he sustained injuries in an accident during the course of employment with the petitioner and expired. The son of the 3rd respondent was drawing monthly wage of Rs.2,970/- while he was discharging his work as mason. The petitioner had undertaken insurance coverage in respect of its employees. The claim of the 3rd

respondent raised before the 1st respondent is squarely covered by the insurance policy and the 2nd respondent must pay the amounts to the 3rd respondent. The 3rd respondent has approached the authority under Workmen's Compensation Act by filing a case in W.C.No.18 of 2003 claiming compensation. The 1st respondent vide orders dated 20.3.2004 directed that the 3rd respondent is entitled for Rs.3,37,823/-. Out of the said determined amount, the petitioner was directed to pay Rs.2,43,983/- to the 3rd respondent and the 2nd respondent is directed to pay Rs.93,840/- to the 3rd respondent. Challenging the same, the present writ petition is filed by the petitioner.

4. The learned Counsel for the petitioner contended that the petitioner had undertaken insurance coverage from the 2nd respondent for its employees and since the 3rd respondent's son died in an accident, the 2nd respondent is liable to pay the entire claim made by the 3rd respondent before the 1st respondent, but the 1st respondent had mechanically passed the order impugned without considering the said stand taken by the petitioner, and therefore, appropriate orders be passed and the order passed by the 1st respondent may be set aside to the extent of directing the petitioner to pay an amount of Rs.2,43,983/- to the 3rd respondent.

5. The learned Counsel for the 3rd respondent contended that the 1st respondent has rightly passed the orders in favour

of the 3rd respondent after appreciating the entire case and that there are no merits in this writ petition.

6. The learned Counsel for the 2nd respondent contended that the insurance coverage taken by the petitioner in respect of its employees is for limited purpose and the entire coverage amount has to be paid by the petitioner as directed by the 1st respondent and that the 2nd respondent is willing to comply with the directions of the 1st respondent and that there are no merits in this writ petition and hence, this petition is liable to be dismissed.

7. Further, the learned Counsel for respondents Nos.2 and 3 contended that this writ petition is not maintainable as per Section 30 of the Workmen's Compensation Act, and under Section 30 of the Act, there is a right of appeal in the form of CMA, and Section 30 of the Act provides that unless and until the entire amount as determined by the 1st respondent is not deposited, the appeal will not be entertained, and therefore, the writ petition is liable to be dismissed.

8. In reply, the learned Counsel for the petitioner submits that an opportunity may be given to the petitioner to pursue its remedies under Section 30 of the Act and it is willing to deposit remaining half of the amount also under 30 of the Act.

9. It is pertinent to note that on 6.7.2004, this Court granted interim suspension of the order impugned subject to the condition of the petitioner depositing half of the amount awarded by the 1st respondent. Now, the only point is about payment of remaining half of the amount awarded by the 1st respondent to the 3rd respondent.

10. Having considered the above submissions, this Court is of the view that at this point of time, the question of granting liberty to the petitioner to pursue remedies under Section 30 of the Workmen's Compensation Act would not be appropriate. Balance of convenience lies in favour of the 3rd respondent in whose favour the 1st respondent passed orders way back in the year 2004. No illegality or irregularity has been pointed out by the learned Counsel for the petitioner in the order impugned. There are no merits in this writ petition. So far, the amount as determined by the 1st respondent has not been paid to the 3rd respondent. Therefore, ends of justice would be met if this writ petition is dismissed.

11. Accordingly, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

10th December, 2018
Nn

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No.10933 of 2004
(dismissed)

10th December, 2018

Nn