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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2336 of 2003

Krishnaveni

... Appellant

vs

1.The Special Officer,
Thiruthani Co-op Sugar Mill,
Thiruvelangadu, Tiruvallur District.

2.Arugmugam

3.M.Ramulu @ Rasu

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, to modify the award passed by the Deputy Commissioner, Labour II, Chennai 600 006 in W.C.No.195 of 1998 dated 02.02.2001.

For Appellant : Mr.S.Kalyanaraman
For R1 : Not ready in notice
For R2 & R3 : No appearance

J U D G M E N T

The appellant was one of the claimant who had filed a claim petition before the Deputy Commissioner for Labour-II, Chennai for compensation under the Workmen's Compensation Act, 1923.

2.It is the case of the appellant, the appellant is the wife of the deceased palraj aged 21 years at the time of death who died while cutting sugarcane and loading the same in the lorry.

3.On 12.02.1994 at about 01.30 while loading the sugarcane by the deceased palraj suffered by chest pain, thereafter vomited and was taken to the Government Hospital, Tiruvallur where he was given first aid and sent to the Government Hospital, Chennai for further treatment where he was declared dead.



4.It is the case of the appellant, the deceased died during the course of the employment. Therefore, the 1st respondent Special Officer of the Thiruthani Co-Operative Sugar Mills was liable to pay the compensation as the said Sugar Mill engaged the deceased for Cutting and Loading Sugar Cane at the time of death.

5.In the said proceedings, the 1st respondent Special Officer of the Thiruthani Co-Operative Sugar Mills has filed counter which was adopted by the 2nd respondent the Field Officer of the said Mills denying the employer-employee relationship between the said deceased Palraj and the respondents.

6.The Deputy Commissioner of Labour-II, Chennai vide impugned order has awarded a sum of Rs.53,450/- to the claimants. While calculating the aforesaid compensation, the Deputy Commissioner of Labour-II has fixed the wages of the deceased as Rs.20/- per day i.e Rs.600/- per month as on the date of the accident on 12.02.1994.

7.It is the case of the appellant, the deceased was earning of Rs.1,800/- per month i.e Rs.60/- per day. The respondents have not let in any evidence to show that the claim of the appellant was incorrect and only stated that the deceased Palraj was not employed by them.

8.Notice on the 1st respondent has not been served while the 2nd and 3rd respondents has been served. Though the notice served on the 2nd and 3rd respondents, there is no representation on behalf of them.

9.The appellant has raised the following substantial questions of law to be considered:-

- i. Whether the learned Commissioner was wrong in not computing the compensation in terms of Section 4 of the Workmen's Compensation Act, 1923 in the case of death of the employee?
- ii. Whether the learned Commissioner was right in fixing the wages at Rs.600/- per month overlooking the evidence adduced on the side of the claimants that the victim earned wages of Rs.60/- per day and was getting a monthly wages of Rs.1,800/- as sugar cane cutter that too in the absence of contra evidence on the side of the respondents with regard to the wages of the victim?
- iii. Did not the authority commit a legal error by fixing the wages at Rs.600/- arbitrarily by not



taking into consideration the evidence on record regarding the wages and calculating the compensation without reference to the evidence regarding the monthly wages of the victim.

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10. Heard the learned counsel for the appellant. I have perused the records.

11. I do not wish to keep this appeal in pending as it pertains to the year of 2003. There is no evidence that the deceased Palraj was earning of Rs.60/- per day. There is also no evidence to suggest that the deceased would have earned only Rs.20/- per day as has been fixed by the Deputy Commissioner of Labour-II, Chennai. Wages fixed at Rs.20/- per day appears to be obviously very low. Therefore, this case is remitted back to the Deputy Commissioner of Labour- II to pass a fresh order to award just compensation.

12. The claim petition is of the year 1988. Therefore, the Deputy Commissioner of Labour - II is requested to pass an order within a period of six months from the date of receipt of a copy of this order. The claimant is entitled to withdraw the amount deposited with Deputy Commissioner of Labour - II, if it has not been already withdrawn.

13. The present Civil Miscellaneous Appeal is allowed by way of remand. No cost.

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

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To

1. The Deputy Commissioner, Labour II,
Chennai 600 006.

2. The Section Officer,
V.R. Section, High Court, Madras.

+1 CC to Mr. S. Kalyanaraman, Advocate sr 89513.

C.M.A.No.2336 of 2003

SS (CO)
SP (27/12/2019)