

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

CMA. Nos.1518 to 1520 of 2004
and
C.M.P.Nos.8003 to 8005 of 2004

The Administrator,
Chengalwarayan Co-operative Sugar Mills,
Periyasevalai, Villupuram District.

... Appellant
in all the petitions

Vs.

1.Vasanta
2.Gunasekaran
3.Major.Latha
4.Major.Jayanthi
5.Raju Udayar
6.Ramachandran

.... Respondents in
CMA.No.1518 of 2004

1.Manimekalai
2.Minor.Suresh @ Prakash
3.Minor Guru @ Pushparaj
4.Ramachandran
[RR2 & 3 declared as major vide order
of Court dated 09.03.2017 by GCJ, made
in CMP.No.7167/2016 in CMA.No.1519/04]

... Respondents in
CMA.No.1519 of 2004

1.Muthukannu

2.Ramachandran ... Respondents in CMA.No.1520
of 2004

COMMON PRAYER: Civil Miscellaneous Appeals filed under Section 30 of the Workmen Compensation Act, 1923, against the common order dated 19.09.2003 made in W.C.Nos.139, 140 and 173 of 2001 on the file of Workmen Compensation Commissioner - II/ Dy. Commissioner of Labour - II, Chennai -6 which was received by the appellant herein on 25.02.2004 respectively.

For Appellant
In all the petitions : Mr.R.Gopinath

For Respondents
[CMA.No.1518 of 2004]: Mr.K.V.Anantha Krishna [for R1]
[CMA.No.1519 of 2004]: Mr.K.V.Anantha Krishna [for RR2 & 3]
[CMA.No.1520 of 2004]: No Appearance

J U D G M E N T

These Civil Miscellaneous Appeals have been filed against the common order dated 19.09.2003 made in W.C.Nos.139, 140 and 173 of 2001 on the file of Workmen Compensation Commissioner - II/ Dy. Commissioner of Labour - II, Chennai -6.

2. The principal employer is the appellant before this Court. According to the appellant, he had floated a tender and engaged the workmen through the 2nd respondent in the claim petition. The deceased and injured were engaged by the 2nd respondent and therefore, there is no employer-employee relationship between the appellant and the respondents. Instead of claiming compensation from the immediate employer, the respondents/claimants have filed a claim petition against the appellant herein and that they are not liable to pay any compensation for want of employer-employee relationship.

3. Heard the rival submissions and perused the available materials before this Court.

4. On a perusal of the order passed under the Workmen Compensation Act, it is made clear that though it was the appellant's contention that the second respondent in the claim petition was the successful bidder and that deceased and injured were employed under him, the appellant has not produced any document to prove such contention. The contention that the second respondent was issued with a Work Order has not been proved. It is stated that the Work Order dated 14.09.2000 was sent through ordinary post on 18.09.2000, whereas the statement is denied by RW.1, the Contractor. In the absence of any proof that claimants were engaged through second respondent, the contention of the appellant falls to ground. In such circumstances, the authority rightly came to a conclusion that the deceased was directly employed by the appellant since he was working under the direct supervision of godown in-charge of the appellant within the premises of appellant mill. Hence the liability was fixed on the appellant. This Court does not find any material to interfere with the order passed by the authority and accordingly, the order passed by the authority under the Workmen Compensation Act dated 19.09.2003 is confirmed.

5. The learned counsel appearing for the respondents/claimants would submit that 50% of the award amount deposited earlier has already been withdrawn pursuant to the orders passed by this Court in C.M.P.Nos.8003, 8004 and 8005 of 2004 dated 30.04.2004 and seek permission to withdraw the balance amount with accrued interest. The respondents/claimants are entitled to withdraw the balance amount on production of proper identification.

6. Accordingly, these Civil Miscellaneous Appeals are dismissed with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

bri

To

The Workmen Compensation Commissioner - II,
Dy.Commissioner of Labour - II,
Chennai -6

+3ccs to Mr.K.V.Anantha Krishnan, Advocate, S.R.Nos.27768 to 27770

CMA. Nos.1518 to 1520 of 2004
and
C.M.P.Nos.8003 to 8005 of 2004

RK(CO)

RRS (04/07/2019)

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