

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No. 1860 of 2007

Mariammal

W/o Seenivasan(died)

(Cause Title Accepted vide order dated
24/01/2006 and made in CMP 1049 of 2006)

.... Appellant/1st Petitioner

Vs

C.Mani,

Proprietor

Chellaram Exports and Printing

Vairapalayam, Erode

..... Respondent/Opposite Party

Prayer: Civil Miscellaneous Appeal has been filed under Section 30 of Workmen's Compensation Act, 1925, praying to call for the records relating to the order dated 08.11.2004 (Received on 12.11.2004) made in W.C.No.269 of 2003 on the file of the Commission for Workmen's Compensation, Salem and set aside the same by allowing this appeal.

For Appellant : Mr.N.Manokaran

For Respondent : Not ready in notice

JUDGMENT

This Civil Miscellaneous Appeal has been filed to call for the records relating to the order dated 08.11.2004 (Received on 12.11.2004) made in W.C.No.269 of 2003 on the file of the Commission for Workmen's Compensation Salem and set aside the same by allowing this appeal.

2. Though the appeal is of the year 2007, notice sent to the respondent has not been served till date.

3. The appellant is aggrieved by the impugned award dated 08.11.2004 in W.C.No.269 of 2003. By the impugned award, the Deputy Commissioner of Labour has dismissed the main petition filed by the appellant and her husband Srinivasan, who are the parents of the deceased Karuppannasamy, who was aged about 37 years at the time of the accident.

4. The facts are not in dispute that the deceased Karuppannasamy was poisoned by colleague by mixing poison in the cooldrinks; the persons who were involved in the murder were also convicted. Since the said Karuppannasamy died in the printing press during the working hours, the claimants who are parents of the deceased filed claim petition before the Deputy Commissioner of Labour, Salem. By the impugned order, the Deputy Commissioner of Labour has concluded that since the death was not due to accident, the parents of the deceased were not entitled to get compensation.

5. The learned counsel appearing for the appellant has relied upon the following decisions of the Madras High Court and Delhi High Court in support of his contentions:

- (i) G.Amsaveni Vs.V.Komala reported in 2016 (1) TNMAC 27
- (ii) Mr.J.R.Midha,J. Vs. M/s.Star Press reported in 2017(2) ACC 379
- (iii) United India Insurance Company Limited Vs. Kanshi Ram reported 2004 (110) DLT 130

In all these cases, this Court as well as Delhi High Court has held that the term 'accident' is neither defined under Employees' Compensation Act nor under the General Clauses Act. Therefore, the dictionary meaning alone has to be taken into account. According to the Black's Law Dictionary, the term 'accident' means, unforeseen untoward incident, which was not reasonably anticipated. The deceased Workman could not have reasonably anticipated that he would be murdered while in duty. Therefore, prima facie death was due to an accident. The case is therefore deserves to be remitted back for denovo consideration by the Authority.

6. In view of the same, the order passed by the Commissioner of Workmen Compensation, Salem is set aside and the matter is remitted back to the Commissioner of Workmen Compensation, Salem to decide the same in accordance with the decisions stated above, after giving due notice to both sides. The Civil Miscellaneous Appeal is disposed accordingly. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner of Workmen's Compensation,
Salem.

2.The Section Officer,
Vernacular Section, Madras High Court.

+1cc to Mr.N.Manokaran, Advocate Sr.92718

C.M.A.No. 1860 of 2007

br[co]
srg 13/01/2020

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