

IN HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	25.10.2019
Pronounced On	06.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3769 of 2004

1.A.Kannan (Deceased)

2.Tmt.Shanthi

3.Minor. Maniarasan

4.Minor.Valarmathi

(3rd and 4th appellants rep. by their
mother & natural guardian 2nd
appellant.)

...Appellants

vs

Sunil @ Sunilkumar

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, to set aside the judgment dated 30.07.2004 in W.C.No.208 of 2002 on the file of the Commissioner Workmen Compensation No.1, cum Deputy Commissioner of Labour No.1, Chennai 600 006.

For appellants : No appearance
For Respondent : Mr.K.S.Ganesh Babu

J U D G M E N T

Today though the case is listed for hearing there is no representation on behalf of the appellant. The learned counsel for the respondent is present. Therefore, this Civil Miscellaneous Appeal is taken up for hearing in absence of the learned counsel for the appellants.

2.The deceased appellant is represented by his legal representative now in the present Civil Miscellaneous Appeal. The deceased appellant had originally filed a claim petition before the Deputy Commissioner of Workmen's Compensation vide W.C.No.268 of 2002 and claimed a compensation of Rs.3,20,000/- from the respondent.

3.The deceased appellant had claimed he was employed by the respondent for the 5 years and that he was a member of the Tamil Nadu Sumai Thookkum Tholilargal Sangam and that he was earning a sum of Rs.150 per day as wages from the respondent.

4.According to the deceased appellant on the fateful day i.e on 29.08.2001 at about 12.50 p.m when he was unloading goods from the lorry along with other co-workers, he suffered fracture and was hospitalised for about 3 ½ months.

5.According to the deceased appellant he was 100% disabled and therefore issued her legal notice dated 03.04.2002 to the respondent to compensate him. The respondent has totally denied the liability stating that there was no employer-employee relationship with the deceased appellant.

6.By the impugned order dated 30.07.2004, the Deputy Commissioner of Workmen's Compensation has rejected the claim petition of the deceased appellant on the ground that he has not established employer-employee relationship with the respondent. Consequently, the claim of the deceased appellant has been rejected by the Deputy Commissioner of Workmen's Compensation. Aggrieved by the same, the present appeal has been filed.

7.The learned counsel for the respondent submits that the order of Commissioner of Workmen Compensation (Deputy Commissioner of Labour - I) is well reasoned and requires no interference.

8.I have perused the records. The issue in the above appeal is purely a question of fact as to whether the deceased appellant was an employee of the respondent on the date of the alleged accident when he suffered injury resulting in permanent disability. Though the deceased appellant has produced evidence that he was physically disabled, he has not produced any evidence to substantiate that he was employed by the respondent.

9.The appellant has not let in any oral evidence from any of the co-workers who were purportedly with him when the alleged accident took place on 29.08.2001 while unloading from the lorry for the respondent. Considering the fact that there is no evidence hardly any fault can be found with the reasoning of the Deputy Commissioner of Workmen's Compensation while rejecting the claim petition of the petitioner.

10.In view of the same, I find no reasons to interfere with the impugned order passed by the Deputy Commissioner of Workmen's Compensation while passing the impugned order. Unfortunately, the appellant has also since deceased and therefore is no point in giving liberty to the appellant to file civil suit in a civil court to establish his rights for damages.

11.In view of the above reasoning, the present appeal was dismissed. No cost.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

jen
To

1.The Commissioner Workmen Compensation No.1,
(Deputy Commissioner of Labour No.1),
Chennai 600 006.

Copy to
The Section Officer,
V.R.Section. High Court,
Madras.

+lcc to Mr.K.S.Ganesh Babu , Advocate SR.No. 91915
C.M.A.No.3769 of 2004
A.SK(27/12/2019)

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