

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2424 of 2006

and

M.P.No.1 of 2006

Deivasigamani

... Appellant

vs

1.Madhammal

2.Raja

3.Poongudai

4.Uthirasamy

5.Prakash

6.Kavin

7.Chinnammal (died)

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, to set aside the order dated 31.05.2006 (Received on 04.07.2006) made in W.C.No.462 of 2003 on the file of the Commissioner for Workmen's Compensation, Salem.

For Appellant : Mr.N.Manokaran
For R1 : Mr.V.Paul Das
For R3, R4 & R6 : No appearance
R7 : Died

J U D G M E N T

The appellant/owner of the Bakkiyam Rice Mills is aggrieved by the impugned order dated 31.05.2006 passed by the Deputy Commissioner of Labour, Salem in W.C.No.462 of 2003.

2.By the impugned order, the Deputy Commissioner of Labour has awarded a sum of Rs.3,06,180/- as compensation together with Rs.2,0500/- for funeral expenses to the respondents who are the legal representatives of the deceased Perumal.

3.According to the respondents, the deceased Perumal was employed by the appellant. On 21.06.2003 at about 11.30 a.m, while the boiler was in operation, it exploded resulting in the death of the deceased Perumal and some of the employees sustained grievous injuries, included the wife of the deceased Perumal Madhammal who are the 1st respondent herein. Thereafter,

they were admitted in Seetha Hospital, Erode for treatment. However, the deceased Perumal died on 04.07.2003 due to burns injuries all over his body.

4. According to the appellant, the deceased Perumal though employed by the appellant, was employed to harvest the sugarcane crop and had nothing to do with the boiler. Therefore, death due to explosion of the boiler resulting in a fatal accident, the death will not make him liable under the Act.

5. Before the Deputy Commissioner of Labour on behalf of the appellant/owner three exhibits were marked. After considering the evidences on record including FIR, Postmortem report and legal notices exchanged and acknowledged, the Deputy Commissioner finally concluded that the respondents/claimants were entitled to receive compensation of Rs.3,06,180/- together with funeral expenses of Rs.2,500/-.

6. Aggrieved by the same, the owner of the Rice Mills has been filed the present Civil Miscellaneous Appeal.

7. In the present Civil Miscellaneous Appeal, the appellant has raised the following substantial questions of law for consideration:-

- i. Whether the commissioner erred in law in holding that the claim application is maintainable under the workman compensation Act against the appellant herein in absence of any evidence to show that the deceased in this case is workman employed by the appellant herein?
- ii. Whether the respondents herein are the dependents as defined under Section 2(d) of the Act, 1923, if so is there any legal evidence to establish the said relationship to sustain the claim petition?

8. The learned counsel for the appellant has raised the two main contention in the present Civil Miscellaneous Appeal. The learned counsel for the appellant submits that the claimants who are the respondents are not legal heirs of the deceased Perumal therefore the Deputy Commissioner of Labour erred in not only awarding the claim but also in claim allowing as the deceased had nothing to do with the boiler and therefore, death not covered under the Workmen's Compensation Act, 1923.

9. Heard the learned counsels for the appellant and the 1st respondent. I have perused order and the records.

10. As far as the issue regarding the legal representatives of the deceased before the Deputy Commissioner of Labour is concerned, it is noticed that the 7th respondent is the mother of the deceased Perumal, She has not been disputed the status of the other claimants as the dependents. The other respondents are the wife, and the children of the deceased perumal. Therefore, the issue is answered against the appellant.

11. As far as the other issue as to whether the appellant can be held liable for the death of the deceased perumal is concerned, it stands proved that the deceased was an employee of the appellant. The appellant has not disputed the deceased was employed by him on 21.06.2003 when the accident took place in the rice mills of the appellant, they were employed by the appellant. The only contention of the appellant is that the deceased was employed to harvest sugarcane crop and he himself voluntarily went to near the boiler when boiler was exploded he was injured and therefore the appellant cannot be held liable for his death.

12. In this appeal, the appellant has tried to dislodge the finding of facts arrived by the Deputy Commissioner of Labour that the deceased was not employed by him in the rice mills where the boiler was situated which exploded on 21.06.2003. However, the appellant has not explained how the deceased was present at the site of the accident. In any event, such accident has to be construed as an employment injury as the rice mills belongs to the appellant where the boiler exploded resulting in injuries to the employees of the appellant.

13. I do not find any merits in the present Civil Miscellaneous Appeal. Further the order passed by the Deputy Commissioner of Labour is well reasoned and requires no interference.

14. In view of the above, the present Miscellaneous Appeal is dismissed. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

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To

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

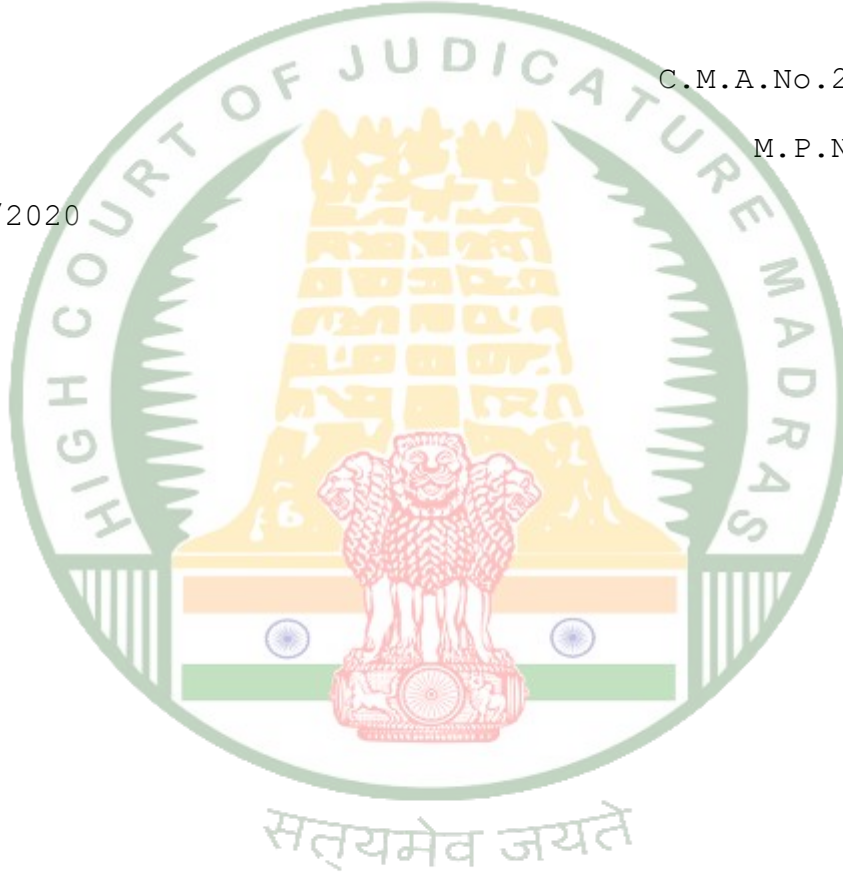
2.The Section Officer,
V.R. Section,
Madras High Court.

+lcc to Mr.N.Manokaran, Advocate, SR.No.95287.

+lcc to Mr.V.Pauldas, Advocate, SR.No.96011.

C.M.A.No.2424 of 2006
and
M.P.No.1 of 2006

NRL (CO)
CSR:21/01/2020



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