

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.452 of 2008

and

M.P.No.1 of 2008

The Assistant Executive Engineer,
Tamil Nadu Water Supply and Drainage Board,
Salem-7.Appellant/1st Respondent

vs

1.Sellammal
2.Marimuthu
3.Kulandaisamy ... Respondents 1&2/ Petitioners 1 &2
4.Raja ...Respondents 3&4/
Respondents2&3

Prayer: Civil Miscellaneous Appeal filed under Section 30 of Workmen's Compensation Act, 1923, to set aside the order of the award of the Commissioner for Workmen Compensation and the Deputy Commissioner of Labour, Salem-7, in W.C.No.271 of 2005 dated 04.12.2006 directing the appellant to pay to the 1st and 2nd respondents/petitioners, the compensation payable of Rs.4,47,920/- and recover later the same from the 2nd respondent as the Contractor.

For Appellant : Mr.M.Arokiyaraj

For Respondents : Mr.S.Kalyanaraman for R1&R2
Mr.T.L.Thirumalaisamy for R3
Mr.B.Arulmurugan for R4

J U D G M E N T

The Appellant is aggrieved by the impugned order dated 04.12.2006 passed by the Deputy Commissioner of Labour, Salem-7, in W.C.No.271 of 2005 has come forward with the present Civil Miscellaneous Appeal.

2. By the impugned order, the Commissioner for Workmen's Compensation has awarded a sum of Rs.4,47,920/- as compensation including funeral expenses to the 1st and 2nd respondent / deceased parents.

3. According to the appellant, on 11.08.2004 one Murugan (deceased) who was working as plumber on daily wage basis was employed by the 3rd respondent/contractor for removing the existing pipeline from Kalarpatty to Vaikundam. When the deceased Murugan was removing the pipeline on 11.08.2004, all of a sudden the sand has fallen over him and he sustained grievous injuries and subsequently died. At the time of death the deceased was only 21 years. The Legal Representatives of the deceased i.e., the 1st and 2nd respondents herein had filed a claim petition claiming a sum of Rs.7,00,000/- as compensation.

4. Based upon the facts, materials, evidence the Commissioner for Workmen's Compensation, Salem has awarded a sum of Rs.4,45,420/- towards funeral expenses of Rs.2,500/- thereby totalling the compensation at Rs.4,47,920/- to the 1st and 2nd respondents.

5. As against the said claim, the Commissioner for Workmen's Compensation has awarded a sum of Rs.4,47,920/- as compensation, against which, the Appellant has filed the Appeal.

6. In the present appeal, the appellant has disputed the quantum of compensation that has been ordered. The appellant has raised a questions of law in the present appeal which reads as under:-

- i. Whether the learned Commissioner is correct in law in directing the appellant to pay the compensation because the deceased was not working under the appellant as the principal employer?

7. Heard the learned counsel for the Appellant and the learned counsel for the respondents and perused the materials available on records. Considering the facts that the appellant being the principal employer, it is liable to pay the compensation to the claimants who are dependants of the deceased since the deceased was an employee of the 3rd respondent. The Deputy Commissioner of Labour has also given opportunity to the appellant to pay and recover the amount.

8. This Court is of the opinion that the compensation awarded by the Commissioner for Workmen's Compensation is well

reasoned and is based on well settled principles of law and therefore, there are no grounds to interfere with the judgement passed by the Deputy Commissioner of Labour, Salem. Therefore, the grounds raised by the appellant is liable to be rejected and they are rejected accordingly. The compensation awarded by the Deputy Commissioner of Labour, Salem is just, fair and reasonable.

9. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant shall deposit the entire compensation amount of Rs.4,47,920/- along with interest of 7.5% as awarded by the Commissioner for Workmen's Compensation (Deputy Commissioner Of Labour), Salem, within a period of four weeks, from the date of receipt of a copy of this judgment. If it has not been already deposited and such deposit the 1st and 2nd respondents shall be entitled to withdraw the same. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Deputy Commissioner of Labour,Salem 7.

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

+lcc to Mr.Arul Murugan , Advocate SR.No. 92356

+lcc to Mr.M.Arokiyaraj , Advocate SR.No. 92345

+lcc to Mr.S.Kalyanaraman , Advocate SR.No. 92266

+lcc to Mr.T.L.Thirumalaisamy , Advocate SR.No. 92031

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A.SK(09/01/2020)