



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A. No. 3032 of 2009

and

M.P. No. 1 of 2009

M/s. Pressicom Industries Ltd.,
No. 9, R.K.Pet Industrial Estate,
R.K.Pet, Sholingar,
Thiruvallur District.

Represented by its Proprietor ... Appellant/2nd Defendant

Vs

1. S. Balaraman

2. The Management,

M/s. Brakes India Ltd.,
padianallur, Sholingar,
Thiruvallur District.

(Not Necessary party in CMA)

... Respondents/Claimant & 1st Defendant

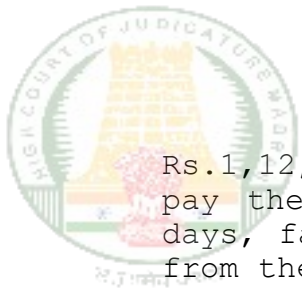
Prayer: Civil Miscellaneous Appeal has been filed under Section 30 of the Workmen Compensation Act, 1923, to set aside the Order dated 17.06.2009 passed in W.C. No. 597 of 2006 on the file of the Deputy Commissioner of Labour - II (Commissioner for Workmen's Compensation), Chennai.

For Appellant	: M/s. Gupta & Ravi
For R1	: Not ready in notice
For R2	: set exparte
	vide in Batta 86572

JUDGMENT

The Appellant is aggrieved by the impugned order passed in No. W.C. No. 597 of 2006, dated 17.06.2009, on the file of the Deputy Commissioner of Labour - II (Commissioner for Workmen's Compensation), Chennai.

2. The first respondent herein, filed a claim petition since he had sustained injuries during the course of his employment under the appellant. On 01.06.2005, the first respondent was directed to attend the work of grinding and trimming the plate and while he was attending the same, all of a sudden, a stone suddenly and unexpectedly busted and hit respondent and caused injury on his eye. By the impugned order, the Deputy Commissioner of Labour II computed a sum of



Rs.1,12,878/- as compensation and directed the appellant to pay the same to the first respondent within a period of 30 days, failing which, the same shall carry with interest at 12% from the date of the accident till the date of payment.

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3. The only ground on which the present appeal has been filed is that the First Respondent/Claimant on his own volition went to the grinding machine on 01.06.2005 without any authorization and he had no knowledge of its working and that the First Respondent/Claimant was only as Helper on daily wages and as such, he was a casual employer in the factory of the Appellant and therefore he was not entitled to compensation. In this connection, the Learned Counsel for the Appellant would refer a decision of the Hon'ble Supreme Court rendered in the case of "Central Mine Planning & Design Institute Ltd., Vs. Ramu Pasi and another", 2006 (1) SCC 377 wherein, in Paragraphs No. (4), (5) and (6), wherein it has been held that the casual employee/worker is not be entitled to the compensation under the Workmens' Compensation Act, 1923. The relevant paragraph reads as follows:

"4. A bare reading of the said Act shows that the expression "workman" as defined in the Act does not cover a casual worker. There was also no definite material adduced to show that the claimant was employed for the purposes of the employer's trade or business.

5. That being so, so the application before the Labour Court was clearly not maintainable. To that extent, the Labour Court and the High Court were not correct in their view. But considering the small quantum awarded, we direct that the amount, if already paid to the claimant, shall not be recovered. In the event, the money has not been paid to the claimant, the same shall be paid forthwith.

"6. If it is on deposit, it shall be permitted to be withdrawn by the claimant."

The Appellant's counsel also relied on decision of the Court in "Machinnon Mackenzie and Co. (P) Ltd Vs Ibrahim Mahammed Issak", AIR 1970 SC 1906, wherein, the Hon'ble Supreme Court has held in paragraph (5), that

"if the accident had occurred or account of a risk which is an incident of the employment, the claim for compensation must succeed, unless of course the workman has exposed himself to an added peril by his own Imprudent act".

4. Heard the Learned Counsel appearing for the Appellant and the Respondents.

5. The decisions of the Hon'ble Supreme Court cited above, are distinguishable on the facts of the present case.



The Learned Counsel for the Appellant has attempted to re-appreciate the findings rendered by the authority. On a perusal of the impugned order of the Commissioner of Labour, this Court finds that every aspect of matter has been discussed in detail and in proper perspective and has come to a conclusion that the first respondent sustained injury during the course of his employment. The decision in "Central Mine Planning & Design Institute Ltd., Vs. Ramu Pasi and another", 2006 (1) SCC 377 arises for an order dated 16.01.1998 of the Patna High Court in M.A. No. 153 of 1992. The above decision was rendered the definition of Workmen in Section 2 (n) of the Workmen's Compensation Act, 1923 read differently. Therefore, the ratio therein cannot be applied to the facts of the case. In such view of the matter, no questions of law much less substantial question of arises for consideration in this appeal.

6. In any event, the amount that has been awarded by the Deputy Commissioner of Labour, - II (Commissioner for Workmen's Compensation), Chennai has also been withdrawn by the First Respondent. Therefore, considering all the facts and circumstances of the case I find no merits in the present appeal.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed and the substantial question of law is answered against the Appellant. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

arb

To

1. The Deputy Commissioner of Labour - II,
(Commissioner for Workmen's Compensation),
Chennai.

Copy To

The Section Officer,
Vernacular Section, Madras High Court.

+1cc to Mr.Gupta & Ravi, Advocate, S.R.No. 99666

C.M.A. No. 3032 of 2009

and

M.P. No. 1 of 2009

SSI (CO)