

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2651 of 2013

1. The Forest Range Officer,
Ulandy Forest Range
Forest Department
Annamalai Tiger Reserve,
Topslip(post), Pollachi 133

2. The Chief Conservator of Forests
& Field Director
Annaimalai Tiger Reserve
365/1, Meenakarai Salai, Pollachi 1 ... Appellants
vs

1.Selvi
2. Minor Bharathi
3. Minor Siva
4. Minor Pooja,
5. Nagu ... Respondents
(R2 & 4 rep by their Natural Guardian
and Mother R1)

Prayer: Civil Miscellaneous Appeal filed under Section 43 Rule 1
and Section 30 of workmen's compensation Act, against the order
of compensation dated 15.05.2013 passed by the Deputy
Commissioner of Labour, Coimbatore -18 (Commissioner for
Workmen's compensation) in Ec No. 39/2012.

For Appellant : Mr. Thangavadhana Balakrishnan
Additional Government Pleader(Forests)

For Respondents: Mr.P.S. Kothandaraman

J U D G M E N T

The appellants are aggrieved by the impugned award dated
15.05.2013 passed by the Deputy Commissioner of Labour,
Coimbatore -18 in EC. No. 39/2012.

2. By impugned order dated 15.05.2013, the Deputy Commissioner of Labour, Coimbatore -18 in E.C No. 39/2012 has awarded a compensation of Rs.3,60,963/- after deducting an amount(Rs.1,50,000/-) already paid in terms G.O.M.S.No.65 dated 18.05.2010.

3. At the time of admission in the present appeal, the appellant has raised the following questions of law:

1. Whether the deceased Mr.Mani has exceeded his limit to take the elephant in absence of mahout, which resulted in his death. Secondly, whether the award under the workman's compensation Act is justified?

2. Whether the Deputy Commissioner is justified in not considering the payment of compensation of Rs.1,50,000/- to the respondents on 16.02.2012 and also compassionate appointment given to the first respondent by the appellant is adequate, in the facts and circumstances of the case?

3. Whether the Deputy commissioner was right in fixing the multiplier and rate of interest on a higher side, without there being any evidence to support the claim?

4. The learned counsel for the appellants has submitted that the Government can be made made liable only to pay compensation only as per the Government Order and therefore the order passed by the Deputy Commissioner of Labour, Coimbatore -18 in Ec No. 39/2013 is not sustainable and that the appellant cannot be deemed to be a workman as defined in Section 2(1)(n) of the workmen's compensation Act, 1923.

4.The deceased Mani was an employee of the appellants herein. The compensation that has to be paid under G.O.M.S.No.65 dated 18.05.2010 is on account of the sudden attack by wild animals. The deceased suffered injury and died on account of attack by wild animals and got compensation as per the prescribed Government order and the compensation prescribed under the said Government Order had been subsequently enhanced by G.O.M.S.No.98 dated 17.08.2011. The Government Order was not intended to cover, compensation which an employee is entitled to get compensation under the Employees Compensation Act, 1923. In this case the Deputy Commissioner of Labour has factored the amount paid under the G.O.Ms.No.65 dated 18.05.2010 and he directed the appellant to the balance amount of the compensation amount to the respondents. I do not find any material infirmity in the impugned order. The compensation that is payable under G.O.Ms.No.98 dated 17.08.2001 is generic and the benefit taken is applicable to every person who is attacked by wild animals.

5. In the light of the above, the substantial questions of law admitted by this Court on 29.07.2013 are answered against the appellant.

6. Therefore I do not find any merits in the appeal and the present Civil Miscellaneous Appeal is dismissed. No costs. Consequently connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-I)

True Copy

Sub-Assistant Registrar

smn

To

1. The Forest Range Officer,
Ulandy Forest Range Forest Department
Annamalai Tiger Reserve,
Topslip (post), Pollachi 133

2. The Chief Conservator of Forests
& Field Director Annaimalai Tiger Reserve
365/1, Meenakarai Salai, Pollachi 1

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

+1 CC to The Spl. Govt. Pleader (Forest) sr 100159

+1 CC to Mr. P.S. Kothandaraman, Advocate sr 100093.

C.M.A.No.2651 of 2013

and

M.P.No.1 of 2013

VD(CO)
SP(07/02/2020)

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