

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2019

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.3313 of 2018 and
W.M.P.No.4056 of 2018

Mariamamma

... Petitioner

Vs.

1.The Deputy Commissioner of Labour,
Coonoor,
The Nilgiris District.

2.The Management,
Wendworth Estate,
Cherambadi Post,
Pandalur Taluk,
The Niligiris District.

... Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in Aa/217/2016 dated 24.07.2017, on the file of the first respondent and quash the same and direct the first respondent to pay a sum of Rs.4,24,828/- as awarded by the first respondent under order dated 18.02.2016 to the petitioner.

For Petitioner : Mr.K.A.Ramakrishnan for
Mr.S.Sukumar

For Respondents: Mr.J.Ramesh,
Additional Government Pleader

O R D E R

The petitioner has filed the above writ petition to call for the records in Aa/217/2016 dated 24.07.2017, on the file of the first respondent and quash the same and direct the first respondent to pay a sum of Rs.4,24,828/- as awarded by him vide order dated 18.02.2016 to the petitioner.

2. The sister of the petitioner viz., Tmt.Mari was working as a permanent employee in the second respondent Management. On 13.12.2015, when the petitioner's sister went for work, a wild elephant attacked her and she died instantaneously. The

petitioner's sister was living with the petitioner and she was having no family though she was married and no issues. In order to arrange funeral for her sister, the petitioner was sanctioned a sum of Rs.5,000/-, by the second respondent Management.

3. After the death of the said Tmt.Mari, the petitioner had applied for legal heir certificate to the Tahsildar, Pandalur Taluk, in order to claim certain benefits. On enquiry, the Tahsildar issued a legal heir certificate on 12.01.2016, stating that the petitioner's brother and another sister were entitled to succeed the deceased Mari. Thereafter, it appears that the petitioner's sister and brother had died. Admittedly, the petitioner herein is only a surviving legal heir of the deceased Mari.

4. The Government of Tamil Nadu had also issued a Demand Draft dated 01.02.2016 for a sum of Rs.2,75,000/-, in favour of the petitioner under Wild Elephant Attack Relief Scheme. The District Forest Officer had also paid a sum of Rs.25,000/- for the funeral expenses of the deceased Mari. Subsequently, the second respondent transferred the Provident Fund amount of her late sister Mari into the petitioner's savings bank account with the State Bank of India. The petitioner herein had also filed a claim petition No.58 of 2016, claiming a sum of Rs.4,24,828/-, before the first respondent. The first respondent by order dated 18.02.2016, was pleased to award the said amount towards the death benefits of the deceased sister Tmt.Mari. In order to claim the said amount, the petitioner had also submitted all the necessary documents.

5. To the shock of the petitioner, the first respondent had passed an order on 06.07.2017, rejecting the claim of the petitioner herein stating that she was not entitled to the compensation amount awarded by him under the provisions of the Workmen Compensation Act. The said rejection is put to challenge in the present writ petition.

6. The learned counsel for the petitioner would submit that admittedly the petitioner herein is the only surviving legal heir of the deceased sister. Therefore, the award passed by the first respondent is payable to the petitioner. The rejection of the claim of the petitioner herein is therefore unjust, illegal and cannot be countenanced in law. The learned counsel for the petitioner would also submit that the amount as awarded by the first respondent has also been deposited by the second respondent Management, in which event, the first respondent ought to have released the amount in favour of the petitioner, in response to her claim.

7. The learned Additional Government Pleader appearing for the first respondent would submit that the first respondent has

passed an award for a sum of Rs.4,24,828/- and there was no other claimant for the award except the petitioner herein.

8. In view of the admitted position and also the fact that the Government had itself released a solatium amount of Rs.2,75,000/- under the Wild Elephant Attack Relief Scheme to the petitioner and coupled with the fact that the funeral expenses had also been released by the District Forest Officer and the second respondent Management in favour of the petitioner, it cannot be gainsaid that the petitioner is not entitled to claim the award passed by the first respondent. In view of the admitted legal and factual position, there is no legal impediment for the petitioner to claim the award amount as ordered by the first respondent.

9. In the said circumstances, the rejection by the first respondent is per se unsustainable and therefore, the same is set aside. The first respondent is directed to release a sum of Rs.4,24,828/- as awarded by him vide his order dated 18.02.2016, within a period of one week from the date of receipt of a copy of this order.

10. With the above direction, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsk

To

1.The Deputy Commissioner of Labour,
Coonoor,
The Nilgiris District.

+1cc to Mr.S.Sukumar, Advocate sr.no.12362
+1cc to Government Pleader sr.no.12827

W.P.No.3313 of 2018

nr 25/03/2019