



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Civil Miscellaneous Appeal No.2826 of 2019

1. A.Assainar
2.V.Yusuf

... Appellants/Respondents

-vs-

Veeramuthu
Rep. by his wife
Mallika
Therku Theru,
Vaithiya Gounder, New Pudur Post and Village,
Athur Taluk, Salem District. ... Respondent/Petitioner

PRAYER: Appeal is filed under Section 30 of the Workmen Compensation Act to set aside the order dated 27.02.2019 made in W.C.No.252 of 2013 on the file of the Deputy Commissioner of Labour, District Collectorate Building 4th Floor (Salem Region), Salem, Tamil Nadu and allow this Civil Miscellaneous Appeal.

For Appellants : Mr.N.Thiyagarajan, Senior Counsel
For Mr.R.Lakshminarayanan

For Respondent : No Appearance

Amicus Curiae : Mr.K.M.Ramesh

O R D E R

This Appeal has been filed to set aside the order dated 27.02.2019 made in W.C.No.252 of 2013 on the file of the Deputy Commissioner of Labour, Salem.

2. For the sake of brevity, the parties would be referred to as per their nomenclature in W.C.No.252 of 2013 filed before the Authority.

3. The sum and substance of the issue on hand is that the applicant was an employee under the respondents before the Workmen Compensation Authority / the appellants herein and on 10.04.2012, there was a blast in the quarry, due to which, the applicant suffered serious injuries, thereby both the hands have



been chopped off, apart from the fact that he also lost his eyesight. It is stated that he was an employee under the respondents for more than 15 years and that a criminal case has been registered in Crime No.130 of 2012. It is further stated that after the injury, he was taken to the hospital and treated and there was a continuous treatment for recovery of his eyesight.

4. It is submitted by the applicant that he was drawing a daily wage of Rs.700/- and he was 40 years old on the date of accident and that he suffered injury in the course of and out of employment. It is also submitted that for the injuries suffered, he is entitled to a compensation of Rs.10,00,000/-.

5. The Appellants herein, who are the Respondents before the Authority have stated that there is no employer and employee relationship between the applicant and the respondents, as the applicant was not employed in the quarry and that the respondents are not the owners of the quarry. It is further stated that the 1st respondent before the Authority, namely, A.Assignor was carrying out the job of the 2nd respondent before the Authority and that the applicant had never established the claim that he was employed for 15 years and there was no evidence with regard to the age, wages and injury sustained.

5.1. It is also stated by the respondents/appellants herein that the applicant was employed as a Loadman in the vehicle bearing Regn.No.KL-53-A-6797 and that the lorry belongs to the 2nd respondent, which was used for supply of raw materials. On the fateful day, viz., 10.04.2013, the applicant was removing the stones from the quarry and at that time, there was a noise, which later came to be known that due to the blast in the quarry, such noise had occurred and that a grinding stone fell on the applicant, thereby he suffered injuries.

5.2. According to the respondents before the Authority / appellants herein that the Authority had wrongly awarded the compensation, when there is no evidence to the effect that the applicant suffered injuries in the course of employment, apart from the fact that there is no document produced in proof of wages drawn by the applicant.

6. The wife of the applicant, who is the respondent herein had tendered her evidence before the Authority that her husband / applicant was employed in the quarry and that on 15.04.2012, there was an incident, in which, he suffered injury in the course of and out of employment and a case has been registered in Crime No.130 of 2012 and subsequently, there was a continuous treatment taken by the injured husband / applicant.



7. One Mr. Mohamed Ali, a Translator of FIR (Ex.A.1), who tendered his evidence, has stated that the place in question is in the name of Asignor and that one Yousuf was carrying on the activities of illegally blasting quarries and in that incident, the applicant suffered serious injuries, apart from losing his eyesight. In the medical certificate, it has been clearly stated that on account of the injuries sustained in the place, the applicant lost his vision.

9. Admittedly, the applicant sustained injuries in the course of and out of employment as per Ex.A.6, due to which, he lost two hands and also eyesight and therefore, the Authority came to the conclusion that there is 100% disability. Taking note of the age and applying the relevant factor applicable to the age, the compensation of Rs.4,85,023/- was fixed by the Authority, in addition to ordering payment of Rs.22,055/- towards medical expenses, totalling Rs.5,07,078/-. In the light of amendment to the Employee's Compensation Act, the actual medical expenditure incurred by the injured employee for treatment of injuries caused during course of employment need to be reimbursed and the documents to be produced before the Authority concerned.

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entertained and it should have been dismissed in limine on account of the fact that it is a condition precedent that the entire amount has got to be deposited together with interest and in the present case on hand, no interest portion has been deposited at all.

11. Taking note of the fact that the Authority has rendered a finding based on the fact, this Court is of the view that there is no substantial question of law involved in this matter to answer the issue in favour of the Appellants herein and therefore, this Court is not inclined to interfere with the order of the Authority, namely, the Deputy Commissioner of Labour, Salem.

12. Accordingly, the present Civil Miscellaneous Appeal is dismissed. The Authority shall disburse the amount already deposited to the applicant / respondent herein within a period of 30 days from the date of receipt of a copy of this order, since the amount has been deposited by means of Demand Draft No.005532 dated 09.04.2019. The interest amount payable to the applicant, namely, 12% from the date of accident till the same is deposited before the Authority, shall be deposited before the Authority within a period of one month from the date of receipt of a copy of this order and on such deposit, the applicant / respondent herein is entitled to withdraw the said amount. It is made clear that the Authority shall not withhold the amount already deposited on the ground that the Appellants have not deposited the interest portion.

13. Since there is no representation on behalf of the respondent herein, this Court appointed Mr.K.M.Ramesh, learned counsel as Amicus Curiae to assist this Court to dispose of this appeal. This Court places on record its deep appreciation to Mr.K.M.Ramesh, Amicus Curiae for his able guidance rendered to this Court for giving quietus to the issue. No costs.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

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To:

The Deputy Commissioner of Labour,
District Collectorate Building,
4th Floor (Salem Region),
Salem, Tamil Nadu.

+lcc to Mr.R.Lakshminarayanan, Advocate, SR.No.102896.
+lcc to Mr.K.M.Ramesh, Advocate, SR.No.102971.

Civil Miscellaneous Appeal No.2826 of 2019

AD(CO)
CSR: 23.01.2020