

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.549 of 2008

1.The Management,

P.S.P Steels Pvt.Ltd.,
67/1 and 67/2 Thiru Malairayan
Pattinam, Vnjore,
Karaikkal 609 606.

2.The Management,

P.S.P.Steels P.Ltd.,
91, P.N.Palayam Road,
K.R.Puram, Ganapathy Post,
Coimbatore 641 006. ... Appellants
/ Respondents 1 and 2

vs.

1.A.Sowkath Ali

2.S.Selvaraj

...1st Respondent/ Petitioner

2nd Respondent/3rd Respondent

Prayer: This Civil Miscellaneous Appeal filed to set aside the order passed by the Commissioner of Workmen Compensation, Salem dated 02.05.2006 made in W.C.No.477 of 2003 .

For Appellants

: Mrs R.Vasudevan

For 1st Respondent

: M/s.Zeenath Begum

J U D G M E N T

Aggrieved by the impugned order dated 02.05.2006 passed by the Commissioner of Workmen Compensation, Salem in W.C.No.477 of 2003, the appellants have come before this Court.

2. By the impugned order, the learned Commissioner of Workmen Compensation has awarded a sum of Rs.4,10,054/- to the first respondent.

3. The 1st respondent-claimant was working as helper under the second respondent- contractor. After the accident, the first respondent was admitted in the Hospital. Even as per the admission of the appellant herein an amount of Rs.20,855/- was paid directly to the hospital for the treatment. Before the Deputy Commissioner of Labour, Salem, the appellant had questioned the application filed by the 1st respondent-claimant under Section 10 of the Workmen Compensation Act on the ground that the alleged accident is said to have been taken place in Karaikkal, whereas the case was filed at Salem and that the first respondent was not an employee and therefore is no basis for awarding compensation to the first respondent-claimant.

4. In support of the defence, the appellants relied on the following documents to substantiate the same.

" 1) Ex.R1. - copy of the pay registers of the 1st opposite party from April 2002 to 2005.

ii) Ex.R2 : Copy of the Master roll of the 1st opposite party for the period from April 2002 to 2005.

iii) Ex.R/3 - Copy of donation paid receipts series (16) in No.

iv) Ex.R.4 - Copy of the order in W.C.No.90/2003 of the Commissioner of Workmen Compensation, Dindigal dated 17.12.2002.

v) Ex.R.5 : E.S.I. papers for the 1st opposite party from 2000 to 2005

series (12 in No) for contribution payment notice."

5. The Deputy Commissioner of Labour, Salem, by the impugned order has held that the appellant has not produced any documents to substantiate their case.

6. Per contra, the learned counsel for the 1st respondent/claimant submitted that the appellants may be permitted to pay and recover the amount from the 2nd respondent under Section 12 of the Workmen Compensation Act. 1923 (Employers Workmen), the appellant becomes the principal employer as admittedly the 1st respondent was injured while working for the appellant. In support of the same, the learned counsel has relied on the decision of the Division Bench of this Court reported in K.Kamalaveni and others Versus The Managing Director, Subbathal Spinning Mills (P) Limited, Erode and others, (2004)3 MLJ 468 wherein it has been held as follows:

" In the present case, the factual finding is that a godown was constructed in the 1st respondent-management mills though the 2nd respondent contractor for constructing the roof of the building and the deceased was engaged and in the course of his employment he died. In view of the said finding of the Deputy Commissioner, Section 12 of the Act is applicable to the facts of the case. According to the Section 12 of the said Act, the 1st respondent-management mills, on whose construction the godown was constructed for the purpose of their business, have to be construed as principle employer though the deceased was immediately employed by the 2nd respondent-contractor."

7. The above decision is squarely apply to the four corners of the facts of the present case. Liberty is given to the petitioner to recover the amount from the 2nd respondent in accordance with law. Accordingly, the present civil miscellaneous appeal stands dismissed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

kkd

To

The Commissioner of Workmen Compensation,
Salem.

Copy to:

The Section Officer,
VR Section, High Court, Madras

+1cc to Mr.T.Susindaran , Advocate SR.No. 76046

+1cc to M/s.Zeenath Begum , Advocate SR.No. 76012

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A.SK(31/10/2019)



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