

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2019

CORAM:

THE HON'BLE Mrs. JUSTICE V.BHAVANI SUBBAROYAN, J.

Civil Miscellaneous Appeal No.488 of 2014
& Cross Objection no.36 of 2019
& CMP.No.18015 of 2019

CMA No.488 of 2014

Rikesh Cranes,
rep. by its Proprietor R.Prakash,
having Office at No.29/14,
Lodd Govindass Nagar Road,
Mount Road, Chennai-600 002 ... Appellant /applicant

..Vs..

- 1.The Commissioner for Employees' Compensation,
and Deputy Commissioner for Labour II,
DMS Compound, Teynampet,
Chennai-600 006
- 2.Thiru.Sekar
- 3.Indiragandhi
- 4.The New India Assurance Company Limited,
No.74, GST Road, 2nd Floor,
Bajaj Towers, Chennai-600 032 ... Respondents

(RR2 to 4 are impleaded as party respondents
vide order of this Court dated 25.03.2014
made in MP.No.2 of 2014 in CMA No.488 of 2014)

Civil Miscellaneous Appeal filed under Section 30 (1) of
the Workmen's Compensation Act, 1923 against the order dated
27.12.2013 made in E.C.No.545 of 2013 on the file of the
Commissioner for Workmen's Compensation (Deputy Commissioner of
Labour-II) at Chennai -6.

Cross Objection no.36 of 2019

1.Thiru.Sekar
2.Mrs.Indiragandhi

.....Cross Objectors

Vs.

1. Rikesh Cranes,
rep. by its Proprietor R.Prakash,
having Office at No.29/14,
Lodd Govindass Nagar Road,
Mount Road, Chennai-600 002

2.The Commissioner for Employees' Compensation,
and Deputy Commissioner for Labour II,
DMS Compound, Teynampet,
Chennai-600 006

3.The New India Assurance Company Limited,
No.74, GST Road, 2nd Floor,
Bajaj Towers, Chennai-600 032 ... Respondents

Cross Objection has been filed under Order 41 Rule 22 of
CPC against the order dated 27.12.2013 made in E.C.No.545 of
2013 on the file of the Commissioner for Workmen's Compensation
(Deputy Commissioner of Labour-II) at Chennai -6.

CMA No.488 of 2014

For Appellant : Mr.K.Suryanarayanan
For Respondents : Mr.S.Jaganathan for R1
Mr.Ma.P.Thangavel for Mr.N.Chinnaraj,
for RR2 &3
Mr.D.Dhakshina Moorthy for R4
- - -

Cross Objection no.36 of 2019

For Cross Objectors: Mr.Mr.Ma.P.Thangavel for
Mr.N.Chinnaraj
For Respondents :Mr.K.Suryanarayanan for R1
Mr.S.Jaganathan for R2
Mr.D.Dhakshina Moorthy for R3

J U D G M E N T

Aggrieved over by the order passed by the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour-II) at Chennai -6 in E.C.No.545 of 2013 dated 27.12.2013, the Management of Rikesh Cranes, rep. by its Proprietor R.Prakash has filed this Civil Miscellaneous Appeal.

2. The claimants are the parents of the deceased who had filed the Cross Objection No.36 of 2019 challenging the award on the ground that the award amount is not appropriate since the Commissioner has not considered the income of the deceased employee who was earning more than Rs.8000/- per month as salary.

3. It is seen from the records available that one S.Sigamani, who was working as Boom Lift Operator in the management of the appellant at Mahindra City, met with an accident while in Boom Lift Operation when the construction work is going on. Immediately, he was admitted at SRM Hospital & Research Center and due to head injury, he died on 29.04.2013.

4. The appellant herein had given a petition before the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour-II) at Chennai -6. On going through the same, the said Commissioner for Workmen's Compensation (Deputy Commissioner of Labour-II) at Chennai -6 passed an order in E.C.No.545 of 2013 dated 27.12.2013.

5. It is seen that there is no material to see that notice was served on the respondents/claimants and only based on the documents produced by the appellant, the same has been decided and the said order has not even referred who were the appellant and the respondents and based on the documents filed by the counsel for the appellant without even taking appropriate steps to serve on the other side, the Commissioner has passed cryptic order and awarded a sum of Rs.8,90,480/- .

6. The learned counsel for the appellant produced a Salary Certificate, which indicates that the salary of the deceased was Rs.25000/-. The Commissioner for Workmen's Compensation (Deputy Commissioner of Labour-II) has fixed the compensation by considering the salary of the deceased as Rs.8000/- and without any basis, he has passed a cryptic order, taking minimum amount as the salary of the deceased. No reason has been assigned in the order passed by the the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour-II) for fixing the salary of the deceased as Rs.8000/- when the appellant has produced the Salary Certificate and no opportunity was given to

the claimants to show and establish the case appropriately and also it was brought to the knowledge of this Court that the Insurance Company has released a sum of Rs.7,00,000/- under the Personal Policy, premium paid and taken by the employer for the employees, whether such amount has been taken into account while deciding the issue.

7. In view of the above facts and circumstances, this Court is inclined to remand the matter back to the Commissioner for Workmen Compensation to re-appreciate the evidence on merits and decide the case and pass appropriate orders after affording an opportunity to the parties concerned within a period of three months from the date of receipt of a copy of this order. The claimants have filed Cross objection, the same also can be taken into account while passing orders.

8. Accordingly, this Civil Miscellaneous Appeal, is disposed of. No costs. Consequently, the Cross Objection No.36 of 2019 is closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

dn
To

1.The Commissioner for Workmen's Compensation
(Deputy Commissioner of Labour-II), DMS Compound, Tenampet,
Chennai-6

+1 cc to Mr.N.Chinnaraj Advocate sr91745
+1 cc to Mr.K.Suryanarayanan Advocate sr91254
+1 cc to Mr.S.Dhakshnamoorthy Advocate sr91215

Civil Miscellaneous Appeal No.488 of 2014

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