



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

CMA(MD)No.1081 of 2007
and M.P.No.1 of 2007

WEB COPY

1. The Divisional Engineer,
Highways & Rural Works Department,
Theni.
 2. The Assistant Divisional Engineer,
Highways and Rural Works Department,
Periyakulam, Theni District.
 3. The Assistant Divisional Engineer,
Rural Roads, N.R.T.Nagar,
Theni.
 4. The Divisional Engineer,
O/o.Divisional Engineer,
Rural Road, 782, Anna Nagar,
Madurai - 625 020.
- ... Appellants/Respondents
1, 2, 7 & 8

versus

1. P.Mookkan
 2. M.Ramasamy
 3. P.Pitchaiammal
 4. P.Raajaa
 5. R.Paandi
- ... 1st respondent/Claimant
- ... 2nd to 5th Respondents/
Respondents 3 to 6

Appeal filed under Section 30 of the Workmen's Compensation Act, against the order dated 31.01.2002 made in W.C.No.77 of 1999 on the file of the learned Commissioner for Workmen Compensation (Deputy Commissioner of Labour), Madurai.

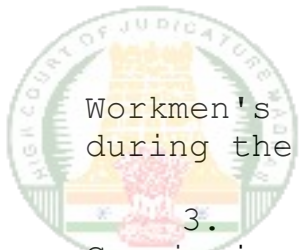
For Appellants : Mr.R.Sethuraman
For Respondents : No appearance

JUDGMENT

This appeal has been filed against the order dated 31.01.2002 made in W.C.No.77 of 1999 on the file of the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Madurai.

2. The applicant/first respondent herein, who claimed to be a workman under the respondents 4 to 6/respondents 3 to 5, filed a claim for compensation in W.C.No.77 of 1999 before the Commissioner for

<https://hcc.mca.gov.in/services/>



Workmen's Compensation, Madurai, for the injuries sustained by him during the course of employment.

3. The Commissioner for Workmen Compensation (Deputy Commissioner of Labour), Madurai, on 31.01.2002, after considering the oral and documentary evidence, awarded the compensation of Rs.77351/- to the applicant/first respondent herein for the injuries sustained by him, along with interest at the rate of 12% p.a., which is payable by the 8th respondent/4th appellant herein and the same can be recovered by adjusting the payment of bills due to the contractor/3rd respondent. The Commissioner for Workmen's Compensation, Madurai, also directed the 3rd respondent/2nd respondent herein to pay penalty of Rs.20,000/- for his callous and unheated attitude. Challenging the liability, the present appeal has been preferred.

4. The main contention of the learned counsel for the appellants that the Deputy Commissioner for Workmen Compensation awarded the compensation of Rs.77351/- against the appellants jointly and severally and allowed the appellants to pay and recover the same from the contractor. According to the appellants, as on the date of order, there is no due payable to the contractor. Hence, it is very difficult to recover the same.

5. This is the only point for consideration in this appeal. The appellants, being the Government, can recover the compensation from the Contractor, by taking action as against them by attaching the property. At the time of granting contract, the appellants would have taken the details of properties of the contractor, for which, he also would have filed solvency certificate. When that being the case, this Court does not find any difficulty for the appellant to pay the entire award amount and to recover the same from the contractor.

6. Further, the Deputy Commissioner for Workmen's Compensation, was correct in fixing liability as against the appellants, who are the principal employer of the contractor and the appellants being the principal employer are jointly and severally liable for payment of compensation. Under such circumstances, the Deputy Commissioner for Workmen's Compensation directed the principal employer to pay the compensation and recover the same from the contractor. Therefore, there is no illegality in the order passed by the Deputy Commissioner for Workmen's Compensation, Madurai.

7. It is further contention of the appellants that the Deputy Commissioner for Workmen's Compensation fixed the disability without any documents.



8. However, the Deputy Commissioner for Workmen's Compensation, based on the statement and nature of injuries and based on the provisions contemplated in the Act, fixed the disability at 35% and therefore, this Court finds nothing wrong in fixing the disability and awarding the compensation for the disability. Accordingly, this Court upholds that the findings of the Deputy Commissioner for Workmen Compensation are correct.

9. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the order dated 31.01.2002 made in W.C.No.77 of 1999 on the file of the learned Commissioner for Workmen Compensation (Deputy Commissioner of Labour), Madurai. However, this Court grants liberty to take action as against the contractors, namely, respondents 2 to 5 herein.

10. The learned counsel appearing for the appellants submitted that the compensation amount along with interest has already been deposited by the appellants.

11. Hence, the applicant/first respondent herein is permitted to withdraw the same, after filing appropriate application before the Commissioner for Workmen's Compensation. The Commissioner for Workmen's Compensation, Madurai, shall transfer the compensation amount along with interest directly to the applicant's account through RTGS, within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

The Commissioner for Workmen's Compensation
(Deputy Commissioner of Labour),
Madurai.

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 90885

CMA(MD)No.1081 of 2007

30.09.2019

SVN(CO)

TR(26.11.2019) 3P 3C