



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2019

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. [MD]No.6762 of 2018

Umavathi

: Petitioner

Vs.

1.The District Collector,
Madurai District.

2.The Commissioner for Workman Compensation,
(Deputy Commissioner of Labour),
Dindigul.

3.The Tahsildar,
Madurai North Taluk,
Madurai District.

4.The Divisional Manager,
Sriram General Insurance Company Limited,
30, HAK Road, Chinna Chokkikulam,
Near ICICI Bank, Madurai.

5.The Joint Commissioner of Labour,
(Workmen's Compensation), Dindigul.

: Respondents

[5th respondent is Suo Motu impleaded by
this Court vide order dated 06.03.2019].

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to complete the recovery proceedings in recovering the amount of Rs.2,94,638/- (Rupees Two Lakhs Ninety Four Thousand Six Hundred Thirty Eight only) towards interest of the compensation amount from the fourth respondent within the time stipulated by this Court and to deposit the said amount to the credit of W.C.No.13/10 on the file of the 2nd respondent.

For Petitioner

: Mr.A.K.Manickam

For Respondents 1 to 3

: Mr.M.Jeyakumar

Additional Government Pleader

For Respondent No.4

: No appearance



O R D E R

The instant Writ Petition has been filed for a Mandamus, seeking for a direction to the respondents 1 and 3 to recover the sum of Rs.2,94,638/- towards interest of the compensation amount from the fourth respondent and to deposit the said amount to the credit of W.C.No.13 of 2010, on the file of the second respondent.

2.It is the case of the petitioner that an award has been passed in his favour by the Labour Commissioner Tribunal (Commissioner for Workmen's Compensation), Dindigul, by award dated 17.08.2015 in W.C.No.13/2010. According to him, eventhough the award was passed for Rs.4,14,400/-, together with interest at the rate of 12% p.a., with effect from the date of accident upto the date of recovery, till date the interest amount has not been recovered. According to the petitioner, she has given several representations to the second respondent to recover the said amount from the fourth respondent and the last of such representation was given by the petitioner on 12.12.2016. Further, eventhough the first respondent has directed the third respondent as early as on 23.10.2017, to recover the interest amount from the fourth respondent, the said interest amount has not been recovered so far. Hence, the petitioner has approached this court under Article 226 of the Constitution of India seeking for a Mandamus.

3.Heard Mr.A.K.Manickam, learned Counsel for the petitioner and Mr.M.Jeyakumar, learned Additional Government Pleader for the respondents.

4.Under Section 31 of the Employees Compensation Act, 1923, the Commissioner of Labour, is empowered to recover the compensation awarded to a workmen under the Employees Compensation Act, 1923 as he is deemed to be a public officer within the meaning of Section 5 of the Revenue Recovery Act, 1890. Section 31 of the Employees Compensation Act, reads as follows:

"31.Recovery: The Commissioner may recover as an arrear of land-revenue any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of Section 5 of the Revenue Recovery Act, 1890 (1 of 1890)"

5.Admittedly, in the instant case, an award has been passed in favour of the petitioner against the fourth respondent under the Employees Compensation Act, 1923, directing the fourth respondent to pay a sum of Rs.4,14,400/- together with interest at the rate of 12 % p.a. with effect from the date of the accident up to the date of recovery.



6.It is the case of the petitioner that the award dated 17.08.2015 has attained finality, as no appeal has been preferred against the said award. It is also the case of the petitioner that several representations were given by her to the second respondent, calling upon him to recover the interest amount. But, it is her case that till date, the interest amount has not been recovered by the second respondent. But, under Section 31 of the Employees Compensation Act, 1923, the Commissioner of Labour alone is empowered to recover the compensation amount awarded to the petitioner and he alone is deemed to be a public officer, within the meaning of Section 5 of the Revenue Recovery Act, 1890, as per Section 31 of the Act.

7.In the instant case, the petitioner has not impleaded the Joint Commissioner of Labour, (Workmen's Compensation), Dindigul, as party to this Writ Petition. Therefore, this Court *Suo Motu* impleads the Joint Commissioner of Labour [Workmen's Compensation], Dindigul as the fifth respondent in the instant Writ Petition, in order to enable the petitioner to get the relief sought for in this Writ Petition.

8.In the result, the fifth respondent is directed to recover the interest amount awarded to the petitioner under the award dated 17.08.2015 passed by the Labour Commissioner Tribunal [Commissioner for Workmen's Compensation] in W.C.No.13 of 2010, in accordance with Section 31 of the Employees Compensation Act, 1923, within a period of four [4] months from the date of receipt of a copy of this order.

9.With the aforesaid direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(AE)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The District Collector,
Madurai District.
- 2.The Commissioner for Workman Compensation,
(Deputy Commissioner of Labour),
Dindigul.
- 3.The Tahsildar,
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Madurai District.



4.The Divisional Manager,
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Near ICICI Bank, Madurai.

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5.The Joint Commissioner of Labour,
(Workmen's Compensation), Dindigul.

+1 CC to M/s.A.K.MANICKAM, Advocate in SR-52208
+1 CC to M/s.D.SIVARAMAN, Advocate in SR-52354
+1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.52611

W.P. (MD) No.6762 of 2018
06.03.2019

MR
PK/08.05.2019 : 4P/9C