

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION**

ADMIRALTY SUIT NO.17 OF 2019

Ajit Chintaman Deshmukh & Anr ..Plaintiffs
Vs.
M. V. PFS Supplier (IMO No. 9221176) & Ors ..Defendants

Mr. Ranjeev Carvalho, with Mr. R. P. Shirole i/b Khare Legal Chambers for Plaintiffs

Mr. Prathamesh Kamat, Amicus Curiae

Mr. Prathap Kishor Kumar, Plaintiff No.2 present

CORAM : K.R.SHRIRAM, J.

DATE : 20th FEBRUARY 2020

PC. :

1 This is a suit filed for recovery of unpaid wages. Plaintiff no.1 and plaintiff no.2 were working as Chief Engineer and Second Engineer, respectively, on board defendant no.1 vessel. The daily wages of plaintiff no.1 was Rs.13,000/- and of plaintiff no.2 was Rs.8000/-. Plaintiff no.1 signed on board defendant no.1 vessel on 11-5-2016 and signed off on 28-9-2016, thereby working for 141 days on board defendant no.1 vessel. Plaintiff no.2 signed on board defendant no.1 vessel on 13-11-2016 and signed off on 1-2-2017 and thereby worked for 84 days. Admittedly, as per the statement of accounts given by defendant no.2, the owners of defendant no.1 vessel, the total wages payable for 141 days for plaintiff no.1 was Rs.18,17,406.08 and for plaintiff no.2 the total wages payable for 84 days service on board defendant no.1 vessel was Rs.6,58,796.70. It is stated that

plaintiff no.1 has been paid Rs.10,75,545/- and a sum of Rs.15,593.02 has to be deducted towards telephone charges from the wages payable to plaintiff no.1 and that will leave a sum of Rs.7,41,861.08 payable to plaintiff no.1. As regards plaintiff no.2, a sum of Rs.1,50,000/- has been paid and a sum of Rs.13,203.30 has to be deducted towards telephone charges and that will leave a sum of Rs.5,08,797/- payable to plaintiff no.2. The break up can be found on page no.35 and page no. 37 of the compilation of documents filed on behalf of plaintiffs.

2 Defendant nos.1 and 2, though served, have neither entered appearance nor filed any written statement. The suit against defendant no.3 has been withdrawn. Considering the nature of the claim, I see no reason why the suit cannot be decreed in view of absence of specific denial as required under Order 8 Rule 3, read with Rule 5 and Rule 10 of the Civil Procedure Code, 1908.

3 In addition, plaintiff no.2, who is also the constituted attorney of plaintiff no.1, has filed an affidavit in lieu of examination-in-chief affirmed on 20-2-2020 along with compilation of 15 documents. Plaintiff no.2, who is present in court, identifies his signature and confirms having filed the affidavit in evidence. The same is taken on record and marked ***Exhibit P-1***. Compilation of documents is also taken on record and marked

as ***Exhibit P-2(colly)***. Defendants admission of liability is at page 36 and page 34 for plaintiff no.1 and plaintiff no.2 respectively in Exhibit P-2(colly)

4 I have also perused the pleadings, affidavit of evidence and compilation of documents with the assistance of Mr. Kamat and Mr. Carvalho. Both of whom, were appointed by this court to assist the court in view of the inability of the counsel engaged by plaintiffs to assist the court. I have to note my appreciation to Mr. Kamat and Mr. Carvalho, who readily agreed to assist the court and without their contribution, it would have not been possible to dispose this matter.

5 I have to also note that plaintiffs' claim would qualify firstly, as a maritime claim under the provisions of Section 4(1)(o) read with (p) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (hereinafter referred to as the Admiralty Act). Plaintiffs claim will also qualify as a maritime lien under Section 9(1)(a) of the Admiralty Act.

6 Plaintiffs will also be entitled to interest @ 9% p.a. from the date of suit until payment / realisation. Plaintiffs in my view, should also be paid costs of Rs.25,000/- each.

7 The suit stands decreed as under:

“(a) That this Hon’ble Court be pleased to pass an order and decree in favour of the plaintiffs against the defendants in the sum of Rs.12,50,658/- (Rupees Twelve Lakh Fifty Thousand Six Hundred and Fifty Eight only) along with interest at 9% p.a. from the date of the suit till the date of payment / realisation, plus costs in the sum of Rs.50,000/-.

The amounts shall be paid to the respective plaintiffs as under:-

(i) Rs.7,41,861/- to plaintiff no.1, and (ii) Rs.5,08,797/- to plaintiff no.2, as principal amount.

Interest @ 9% p.a. on these amounts shall also be paid from the date of the suit until payment / realisation.

Plaintiffs are also entitled to costs of Rs.25,000/- each from defendants.

8 Drawn up decree dispensed with.

9 All to act on authenticated copy of this order.

(K.R. SHRIRAM, J.)