

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2020

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.1221 of 2013

Mr.Thomas @ Gabriel

.. Appellant

Versus

Mr.Bakir,
Proprietor Bharat Engineering,
No.22/47, Muthumari Chetty Street,
Chennai – 1.

.. Respondent

Prayer: Civil Miscellaneous Appeal has been filed under Section 30 of the Workmen's Compensation Act praying to set aside the award dated 28.12.2012 made in W.C.No.P.No.225/2010 on the file of the learned Deputy Commissioner of Labour-I, Chennai.

For Petitioner

: Mr.F.Terry Chellaraja

For Respondent

: No Appearance

ORDER

Heard Mr.F.Terry Chellaraja, learned counsel for the claimant/appellant, through Video Conferencing due to COVID-19 pandemic.

2. Aggrieved by the award dated 28.12.2003 passed in W.C.P.No.225 of 2010 by the learned Deputy Commissioner of Labour-II rejecting his claim for compensation, the

claimant/appellant herein has filed this appeal.

3. Learned counsel for the claimant/appellant submitted that on 22.03.2010 at about 3.15 p.m., while the claimant was working in the factory belonging to the respondent, he sustained grievous injuries on his right hand index finger due to fall of cutting machine, that had ultimately resulted in amputation of his right index finger. Immediately after the accident, he was taken to the Government Stanley Medical College Hospital, Chennai, by one co-worker Mr.Vijay, and thereafter, he was also admitted in a private hospital and spent Rs.10,000/- towards medical expenses. Knowing pretty well that he had sustained grievous injuries during the course of employment, opposite party/respondent herein had failed to pay anything towards medical expenses and on the other hand, only the coworkers collected the money and gave Rs.500/- towards his medical expenses. When the accident took place on 22.03.2010, the said factory did not provide adequate safety equipment to prevent such accident, as a result, his right hand index finger got amputated. Immediately after the accident, the respondent has also assured to give some money for medical expenses, as such accident had occurred during the course of employment, but, the respondent employer has failed to keep up such promise. Therefore, the claimant/appellant herein has filed the claim petition before the learned Deputy Commissioner of Labour-II, Chennai, under Section 10(1) of the Workmen's Compensation Act, claiming Rs.3,00,000/- as compensation.

4. Learned counsel for the claimant/appellant herein argued that immediately after the accident, that had occurred on 22.03.2010, he was taken to the Government Stanley Medical College Hospital, Chennai, and admitted as inpatient from 22.03.2010 to 27.04.2010. However, learned Labour Commissioner rejected the claim petition on the ground that the appellant has failed to produce the relevant documents to establish his identity as Thomas @ Gabriel. Even the counter affidavit filed before the learned Labour Commissioner does not deny the identity of the claimant/appellant herein as Thomas @ Gabriel.

5. In support of his claim, learned counsel for the claimant produced a Discharge Summary as well as Visitor's pass issued by the Government Stanley Medical College Hospital, Chennai, to show that the claimant is known as Thomas @ Gabriel. Besides, he has also produced a copy of the Rental Agreement dated 09.09.1998 and it also shows the name of the claimant as Thomas @ Gabriel. By relying these documents, he contended that for the fault committed by the counsel, the claimant, whose right index finger got amputated, should not be put to grave prejudice. When the claimant sustained grievous injuries on his right index finger, merely accepting the objection raised by the respondent, learned Labour Commissioner has wrongly dismissed the claim petition on the ground that claimant has failed to establish that his name is Thomas @ Gabriel.

6. No representation for the respondent/employer.

7. The only question that arises for consideration is whether the claimant/appellant is Mr.Thomas @ Gabriel? Before the learned Labour Commissioner, Ex.A1-Hospital Receipt and Ex.A2-Medical Certificate were marked and in both documents, name of the claimant is shown as Gabriel. Even during the cross-examination, the claimant deposed his name as Gabriel as per the Baptismal Certificate given by the Catholic Church, Marriage Invitation and Ration Card. Therefore, by scrutinizing all these documents, the learned Labour Commissioner has rightly rejected his claim petition disputing his name, as he did not admittedly adduce any single piece of evidence before the learned Labour Commissioner to depict that he is [Thomas@Gabriel](#).

8. In the present appeal, although learned counsel for the claimant has filed M.P.No.1 2013 praying to permit him to mark additional documents, this Court, vide order dated 17.07.2013, ordered only notice. In the said petition, he has sought to mark the Discharge Summary issued by the Government Stanley Medical College Hospital, Chennai, Department of Surgery, Chennai, in and by which, it is seen that he had sustained grievous injuries while riding two wheeler, for which, he was admitted as inpatient from 28.12.2003 to 01.01.2004, and it is no way connected to the present accident, that had occurred on 22.03.2010, seven years later than the previous accident and therefore, the same cannot be marked/relied on to the present case to prove that he is

Thomas@Gabriel. Secondly, he has also sought to mark the Visitor's Pass, but, in which, the date is shown as 30/12, without mentioning the year and therefore, the same cannot be relied on to support his claim. Thirdly, he has also sought to mark the Rental Agreement dated 09.09.1998 to prove that he is Mr.Thomas@Gabriel, but, the said document is not a registered one and it is an unregistered document and therefore, same cannot be taken on record to support his claim.

9. Thus, for the reasons stated above, this Court is not inclined to interfere with the impugned award passed by the learned Deputy Commissioner of Labour-II, Chennai. Accordingly, the Civil Miscellaneous Appeal is dismissed. No Costs.

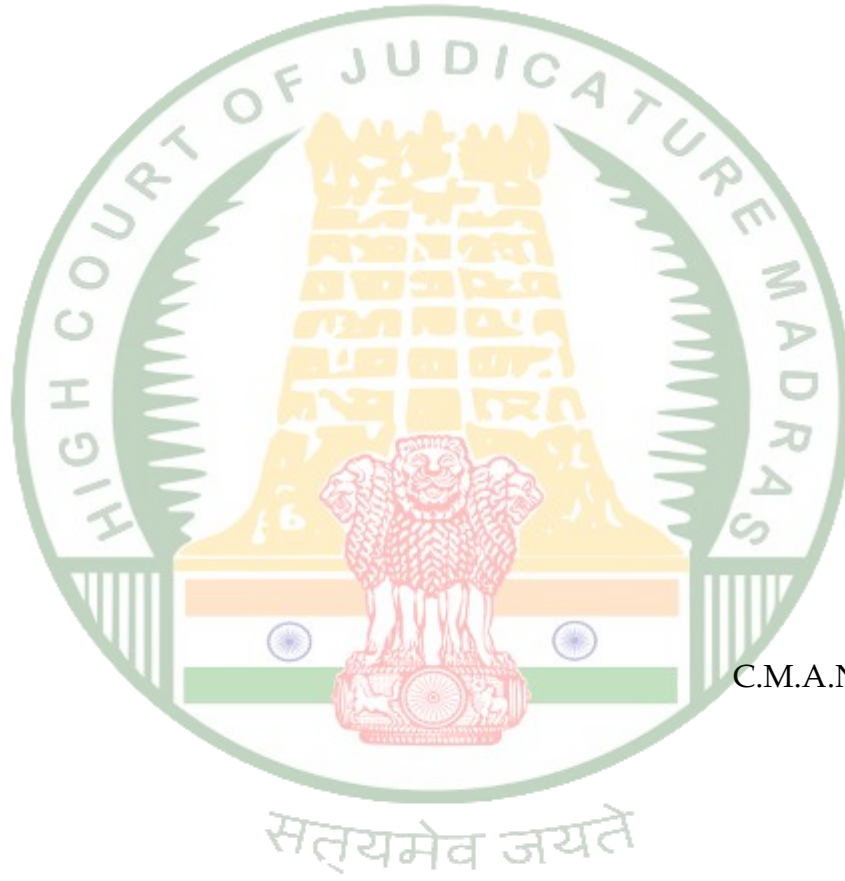
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To

Deputy Labour Commissioner-II, Chennai.

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T.RAJA, J.

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