

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Civil Miscellaneous Appeal No.2075 of 2013
and M.P.No.1 of 2013

Ravi Chettiar

...Appellant/ Opposite Party

-vs-

Tmt.G.Eva Sulochana

... Respondent/ Applicant

PRAYER: Appeal is filed under Section 30 of the Workmen's Compensation Act, 1923 to set aside the order dated 13.10.2010 made in W.C.No.403 of 2007 on the file of the Deputy Commissioner of Labour-2, Chennai.

For Appellant : M/s.Jayaraman Asso.

For Respondent : No Appearance

O R D E R

This Appeal has been filed to set aside the order dated 13.10.2010 made in W.C.No.403 of 2007 by the Deputy Commissioner of Labour-2, Chennai, by which the Appellant herein was directed to pay compensation of Rs.1,25,489/- within 30 days to the respondent.

2. The respondent herein had filed an application before the Deputy Commissioner of Labour, Chennai, stating that while she was working as a Coolie in the Rice Mill of the Appellant, she met with an accident, which had resulted in the respondent sustaining permanent disability and therefore, a compensation of Rs.2,00,000/- was sought to be granted in favour of the respondent. The Authority, after analyzing various factors and perusing the material documents, had granted the compensation of Rs.1,25,489/-, against which, the employer is before this Court, on the ground there was no evidence to prove that the accident had occurred in the course of employment.

3. Heard the learned counsel for the Appellant and there is no representation for the respondent.

4. It is not in dispute that the respondent was an employee of the Appellant and she had suffered injuries in the course of and out of employment. The discharge summary produced clearly shows that the respondent suffered contusion and there was a

problem with regard to L5 and D11 and therefore, she was advised as follows:

- Taylors brace
- Active / passive exercise of lower limb
- Back Care, Bladder, bum care

5. It is the main contention of the learned counsel for the Appellant that though the respondent had suffered injuries, none of the injuries said to have been sustained by the respondent had been stated by the Doctor before the Authority and there is also no whisper about it in the discharge summary. Apart from the above, the certificate issued by the Doctor with regard to the injury has no reference to the discharge summary at all and there is a total contradiction between the discharge summary and the certificate issued by the Doctor.

6. On a perusal of the First Information Report (FIR), which was registered based on the complaint given by the son of the respondent, it could be seen that though the respondent was referred to the Government Hospital at Chennai, the respondent, out of fear of surgery, did not go to the Government Hospital at Chennai and decided herself to go for alternate medicine.

7. Learned counsel for the Appellant drew the attention of this Court to the letter dated 10.03.2010 issued by the President of Eekadu Panchayat to contend that the respondent was appointed under "100 days of Employment Scheme" and if there had been really an injury suffered by her on account of fracture, she would not have certainly opted for such employment.

8. I find much force in the contention raised by the learned counsel for the Appellant. Taking into account the fact that there is a variation between the discharge summary and the certificate issued by the Doctor, in the considered opinion of this Court, the order of the Deputy Commissioner of Labour-2, Chennai dated 13.10.2010 has no legs to stand and is unsustainable.

9. In the result, this Civil Miscellaneous Appeal is allowed and the order made in W.C.No.403 of 2007 by the Deputy Commissioner of Labour-2, Chennai dated 13.10.2010 is set aside. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

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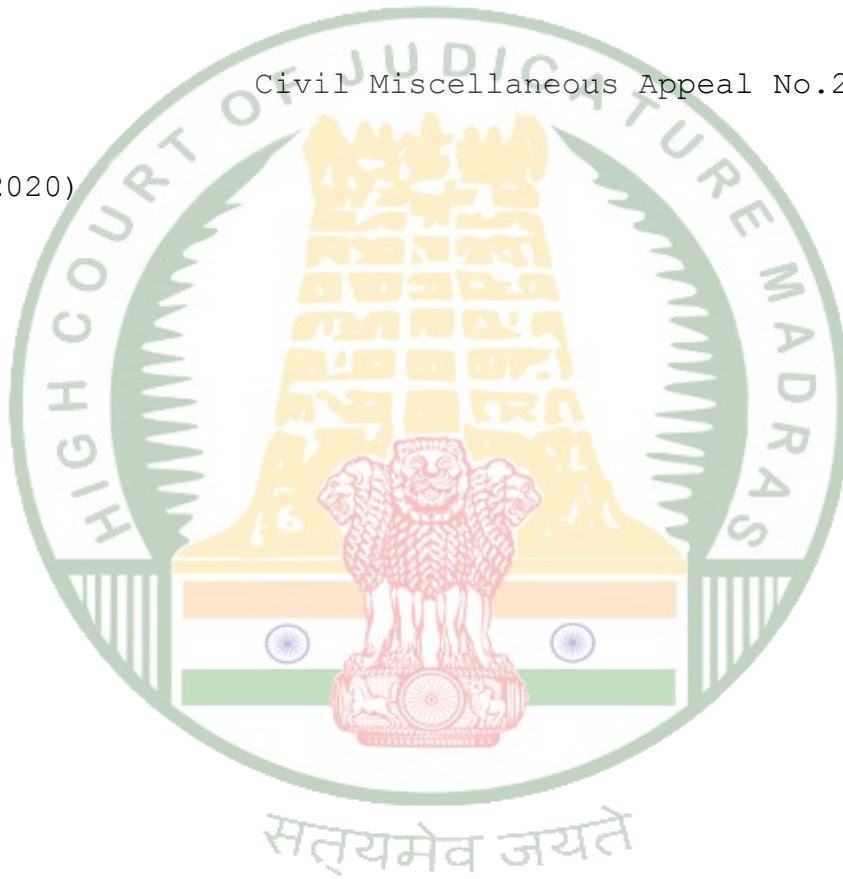
To:

The Deputy Commissioner of Labour-2,
Chennai

+1 CC to M/s. Jayaraman Associates sr 3718.

Civil Miscellaneous Appeal No.2075 of 2013

SSD(CO)
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