

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE T. RAJA

C.M.A.No.651 of 2016

Santhosh Kumar

... Appellant

Vs

1. Anjali
2. Govindarajan
... Respondents

Prayer: Civil Miscellaneous Appeal filed against the order dated 13.04.2015 which was received on 07.05.2015 (by Post) passed in I.A.No.37/2014 in W.C.No.94 of 2005 by the Deputy Commissioner of Labour-I (The Commissioner for Workmen's Compensation-I, Chennai and to set aside the same.

For Appellant : Mr.K.A.Ravindran

For 1st Respondent: Mr.S.Parthasarathy

R2 : No Appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the impugned dismissal order dated 13.04.2015 passed in I.A.No. 37/2014 in W.C.No.94 of 2005 by the Deputy Commissioner of Labour-I (The Commissioner for Workmen's Compensation-I), Chennai which was filed seeking to set aside the ex-parte order dated 10.03.2008 in W.C.No.94 of 2005.

2. Heard the learned Counsel on either side. I have also carefully perused the materials available on record.

3. A perusal of the records would go to show that the appellant is an employer against whom W.C.No.94/2005 was filed claiming compensation of Rs.6,00,000/- with interest at the rate of 15% from the date of accident occurred to one deceased Selvaraj who was bachelor working under the appellant. The claim petition further states that when the deceased Selvaraj was employed as a worker under the appellant for a monthly salary of Rs.5,000/-, on 10.07.2002 at about 11.00 hours, he

went to fill up gas in the gas baloon used for advertising in the photo studios, owned by the opposite party/appellant herein and at that time, the gas balloon burst and the pieces of the balloon came down from the heavy height, fired and fall upon the deceased Selvaraj due to which he sustained grievous injuries. Immediately, the opposite party/the appellant herein, the owner of the Colour Lab taken him to Kilpauk Medical College Hospital, Chennai for treatment and admitted him for treatment. On 18.07.2002 at about 03.30 hours, the deceased Selvaraj died due to the injuries sustained by him in the said accident. Therefore, the parents of the deceased Selvaraj have filed a Claim Petition before the Deputy Commissioner of Labour-I (The Commissioner for Workmen's Compensation-I, Chennai in W.C.No.94/2005. The said claim was not even contested by the appellant herein and he allowed the Deputy Commissioner of Labour to proceed further. Accordingly, after setting him ex-parte, a decree was passed on 10.3.2008. Thereafter also, the appellant remained silent spectator without even complying with the award passed by the Deputy Commissioner of Labour.

4. While so, the mother of the deceased Selvaraj, one of the claimants in W.C.No.94/2005 filed W.P.No.28764/2014 before this Court seeking to initiate Revenue Recovery Proceedings against the appellant herein by the District Collector, Chennai. Even today, the same is pending unfortunately wherein the appellant herein has also filed a counter affidavit exposing his case. It is not known why the parties have not taken any steps to list the W.P.No.28764/2014 at an early date. Be that as it may, when the ex-parte award was passed by the Deputy Commissioner of Labour-I (The Commissioner for Workmen's Compensation-I, Chennai on 10.03.2008, after 12 years, the appellant herein, who has been successfully dodged the Deputy Commissioner of Labour, has approached this Court by filing Counter Affidavit in W.P.No.28764/2014, which cannot be allowed to be heard. The reason being that the claimants have averred that their son deceased Selvaraj was employed by the appellant in his Colour Lab for gas balloon filling work and he sustained grievous injuries, in view of the gas balloon busted out on 10.07.2002 and immediately, thereafter, it is the admitted case of the appellant that the deceased was rushed to Kilpauk Medical Collge Hospital, Chennai for treatment and he died on 18.07.2002. Thereafter, when the Claim Petition was filed by the parents of the deceased Selvaraj, the appellant did not even file any memo and remained ex-parte before the Deputy Commissioner of Labour. Therefore, this Court finds no merit or justification to entertain the present Civil Miscellaneous Appeal.

5. With the above observation, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

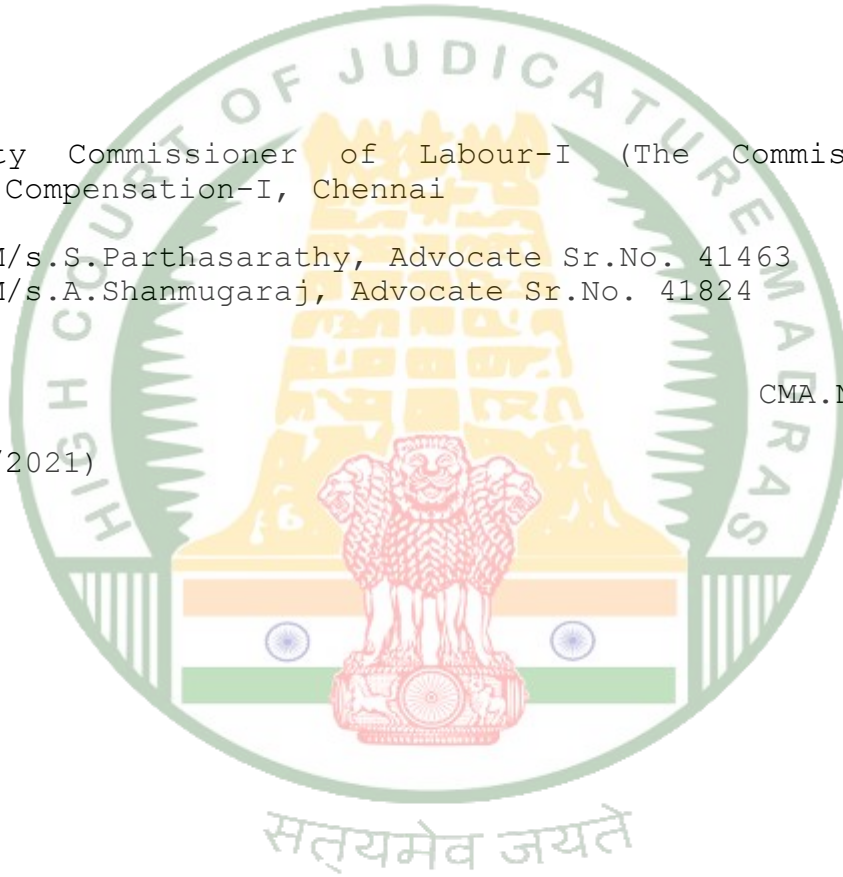
The Deputy Commissioner of Labour-I (The Commissioner for Workmen's Compensation-I, Chennai

+1 cc to M/s.S.Parthasarathy, Advocate Sr.No. 41463

+1 cc to M/s.A.Shanmugaraj, Advocate Sr.No. 41824

CMA.No.651/2016

SR(CO)
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