



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 27.11.2020

Pronounced on : 23.12.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

WEB COPY

W.P. (MD) Nos.11813 of 2016 and 16864 of 2019

and

W.M.P. (MD) No.13451 of 2019

W.P. (MD) No.11813 of 2016

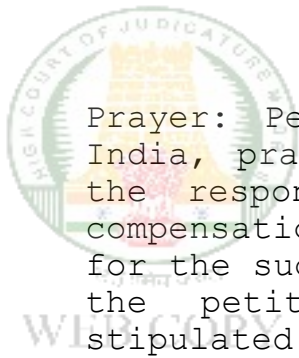
A.Balan

... Petitioner

-vs-

1. The District Collector,
Dindigul District,
Dindigul.
2. The Insurance Regulatory and Development Authority,
3rd Floor, Parisrama Bhavan,
Basheer Bagh, Hyderabad,
Telungana.
3. Kirloskar Brother Ltd.,
Through its representative by
Sanjay Kirloskar,
Chairman and Managing Director,
Survey No.98,
Hissa 3-7 Banner,
Pune, Maharashtra - 411 045.
4. Team Lease Service Pvt. Ltd.,
through its representative by
The Manager,
BMTC Commercial Complex,
6th Floor, 80 Feet Road,
Korammangala,
Bangalore - 560 095.
5. ICICI Lombard General Insurance Company Limited,
Through its representative by
The Manager,
ICICI Lombard House,
414, Veer Savarkar Marg,
Near Siddhivinayak Temple,
Prabhadevi,
Mumbai - 400 025.

... Respondents



Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents 1 and 2 to take appropriate action to award compensation and all other benefits etc., to the petitioner's family for the sudden demise of his son namely Thangamurugan by considering the petitioner's representation dated 12.04.2016 within the stipulated time.

For Petitioner : Mr.S.Loganathan
For Respondents : Mr.K.P.Krishnadoss
1 and 2 Special Government Pleader
For Respondent 3 : Mr.M.P.Senthil
For Respondent 4 : Mr.Anand Gopalan
For Respondent 5 : No appearance

W.P. (MD) No.16864 of 2019

M/s.Team Lease Services Limited,
Rep. by its Authorised Signatory,
No.58, 3rd Floor,
Karisma Building,
Uthamar Gandhi Salai,
Nungambakkam High Road,
Chennai - 600 034.

... Petitioner

-vs-

1. The Deputy Commissioner of Labour,
Authority under the Employees Compensation Act, 1923,
84, Nehruji Nagar,
1st Street,
Dindigul.

2. A.Balan

3. B.Kalarani (Mother of deceased)

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the first respondent to receive the compensation amount of Rs.13,48,223/-, payable by the petitioner to the legal heirs of the deceased employee and dispose of the same to the appropriate legal heirs, after due verification, in terms of the Employees Compensation Act, 1923.

For Petitioner : Mr.Anand Gopalan
For Respondent 1 : Mr.K.P.Krishnadoss
Special Government Pleader
For Respondents : Mr.S.Loganathan
2 and 3



COMMON ORDER

The Writ Petition in W.P.(MD)No.11813 of 2016 has been filed by the father of the deceased B.Thangamurugan, seeking issuance of a Writ of Mandamus, to direct the respondents 1 and 2 to take appropriate action to award compensation and all other benefits etc., to his family for the sudden demise of his son namely B.Thangamurugan by considering the petitioner's representation dated 12.04.2016 within the stipulated time.

2.The Writ Petition in W.P.(MD)No.16864 of 2019 has been filed by the Team Lease Services Limited, seeking issuance of a Writ of Mandamus, directing the first respondent to receive the compensation amount of Rs.13,48,223/-, payable by the petitioner to the legal heirs of the deceased employee and dispose of the same to the appropriate legal heirs, after due verification, in terms of the Employees Compensation Act, 1923.

3.The learned Counsel appearing for the petitioner in W.P.(MD) No.16864 of 2019 would submit that the petitioner is in the business of providing various outsourcing services to various clients across the country. The son of second and third respondents by name B.Thangamurugan was working nearly for two years under the petitioner as a Site Engineer in a Hydro Power Station. While so, on 25.12.2014, he died due to electrical shock. Immediately, in order to meet the funeral expenses, the petitioner paid a sum of Rs.3,00,000/- (Rupees three lakhs only) by two cheques each in the name of the second and third respondent herein and a sum of Rs.75,000/- in cash. Since the petitioner is liable to pay compensation under the Employees Compensation Act, 1923, immediately, the petitioner by communication dated 30.12.2014 informed about the accident and death to the first respondent. Pursuant to the same, vide communication dated 24.02.2015, the first respondent had sought certain details from the petitioner with regard to the accident. After receiving the particulars from the petitioner, the first respondent called on the petitioner and the respondents 2 and 3 for an enquiry and a sum of Rs.8,73,880/- was arrived at as compensation and a sum of Rs.4,74,344/- towards interest at the rate of 12% upto the period of 31.07.2019. However, on some misconception and erroneous notion, the second and third respondent, who are the legal heirs of the deceased, had refused to receive the compensation by stating that they have filed a writ petition and hence, the first respondent closed the proceedings No.A/3/6419/2018, dated May, 2019. However, in order to comply with the statutory liability, the petitioner prepared a cheque for a sum of Rs.8,73,880/- vide Cheque No.988252, dated 17.04.2019 and sought to deposit with the first respondent but the first respondent had refused to receive the amount. Therefore, the petitioner has come forward with the present Writ Petition in W.P.(MD) No.16864 of 2019 seeking a direction to the first respondent to receive the compensation amount of Rs.13,48,223/-, payable by the petitioner to

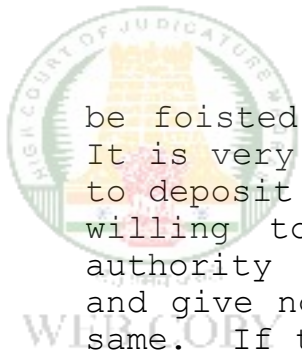


the legal heirs of the deceased employee and dispose of the same to the appropriate legal heirs, after due verification, in terms of the Employees Compensation Act, 1923.

4.Mr.Anand Gopalan, learned Counsel appearing for the petitioner in W.P.(MD)No.16864 of 2019 would submit that the petitioner management wanted to deposit the amount but the authority concerned, namely, the first respondent had refused to accept the amount payable by the employer by closing the proceedings, as the father of the deceased/second respondent herein had filed a Writ Petition claiming compensation. The first respondent has to accept the amount deposited by the petitioner and the same has to be paid to the legal heirs of the deceased after conducting dependent enquiry. Even if there is any dispute, it is for the authority under Employees Compensation Act, 1923, to decide the dependents/heirs/legal representatives of the employee / workman and determine the compensation. It is further submitted that if the amount is correct, then it has to be paid after dependents' enquiry. If the amount of compensation arrived at by the employer is not accepted by the authority, further amount and interest can be foisted on the Management unnecessarily for no fault on the part of the Management, even though the Management is ready to deposit the amount, as now they need to pay more interest. In case of difference, claimants can make an application under the Workmen Compensation Act, 1923 and request the authority to determine the amount and pay the difference in amount, if any, after adjusting the deposited amount.

5.The learned Counsel appearing for the petitioner in W.P.(MD) No.11813 of 2016 would submit that the petitioner's son was appointed as Site Engineer in the year 2010 by the fourth respondent company and deputed to the third respondent company. On 25.11.2014 at about 11.00 a.m. when he was working at Periyar Vaigai Serupunal Water Power Station Unit III, he died due to electrical shock and an FIR was registered in Crime No.61 of 2014, dated 25.12.2015 According to the deceased's father, his son may not be an employee in terms of Workmen's Compensation Act, 1923 and is entitled to more compensation.

6.Considering the facts and circumstances of the case, this Court is of the view that pendency of the Writ Petition is not a bar for the petitioner in W.P.(MD) No.16864 of 2019 to deposit the amount of compensation together with interest at the rate of 12% per annum apart from the amount of Rs.3,00,000/- which was paid already for funeral expenses. Further, if the petitioner management wanted to deposit the amount, the authority concerned, namely, the first respondent has got to accept the amount payable by the employer and if there is any dispute, it is for the dependents of the deceased workman to seek adjudication it before the appropriate authority by filing necessary claim petition. If the admitted amount of compensation is not accepted by the authority, further interest will

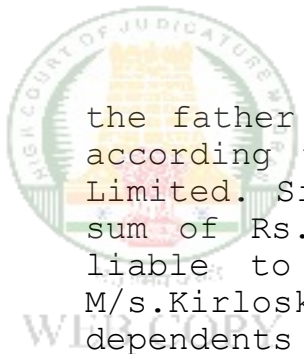


be foisted on the management unnecessarily as in the present case. It is very difficult that in the present days, no employer will come to deposit the admitted amount or any amount, and if the employer is willing to deposit the amount of compensation, it is for the authority to accept the same under the Employees Compensation Act and give notice to the parties concerned asking them to receive the same. If there is any grievance, it is the duty of the authority to determine the amount, thereafter conduct dependent enquiry and pay the amount together with interest upto the date of filing, even though there is no obligation on the part of the employer to pay interest beyond the date of remittance of amount. According to the petitioner in W.P.(MD)No.16864 of 2019, as there was no fault on their part, though a sum of Rs.3,00,000/- has already been paid, the petitioner is willing to pay the amount of compensation which has been arrived at taking into account a sum of Rs.8,000/- as basic for the workman and no duty is cast upon the petitioner to pay more than that of Rs.8,000/-.

7.I find much substance in the arguments of the learned Counsel for the petitioner in W.P.(MD)No.16864 of 2019. Even though the petitioner has demanded a sum of Rs.2,00,00,000/- (Rupees Two Crores) as compensation in the affidavit, there is no method to arrive at the said compensation. The contention that the deceased does not come under the purview of Workman Compensation Act is highly imaginary, and, if this argument is accepted, then not even a pie needs to be paid by the management under the aforesaid legislation and it has got to be worked out before a different forum, and not before this Court, or even before the Workmen Compensation authority. The deceased was an employee coming within the purview of the Employees Compensation Act, 1923.

8.Mr.M.P.Senthil, learned Counsel appearing for the third respondent in W.P.(MD)No.11813 of 2016 would fairly submit that the third respondent is willing to pay a sum of Rs.3,00,000/- (Rupee three lakhs only) as gratis , over and above the amount payable in terms of Workmen Compensation Act, even though there is no liability on them and it cannot be taken as a precedent for all cases that may arise.

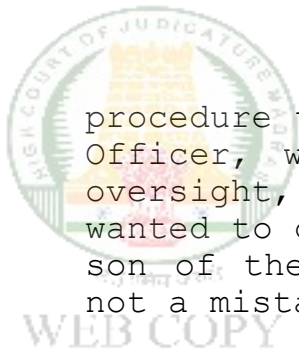
9.This Court, taking note of the legal position that the dependents will not be entitled to the relief as claimed by them in this Writ Petition, except the compensation payable under the Workmen Compensation Act, 1923. This Court suggested to increase a sum of Rs.1,00,000/- each by the M/s.Teamlease Services Limited, apart from the admitted amount and M/s.Kirloskar Borthor Ltd., apart from a sum of Rs.3,00,000/- now agreed to be paid. Taking note of the fact that the father has lost his son, who was 24 years old, this Court is of the view that the compensation arrived at by M/s.Teamlease Services Limited together with interest @ 12% from the date of accident till it is deposited before the Authority under the Employees Compensation Act, alone is payable, which can be drawn by



the father and mother of the deceased, who are the only dependents, according to Mr.Anand Gopalan, representing M/s.Teamlease Services Limited. Since M/s.Kirloskar Borthor Ltd., fairly conceded to pay a sum of Rs.3,00,000/- on humanitarian grounds, which they are not liable to pay in terms of W.C.Act, 1923, this Court directs M/s.Kirloskar Borthor Ltd., to pay a sum of Rs.4,00,000/- to the dependents so that the issue is given quietus to. M/s.Teamlease Services Limited had already paid a sum of Rs.3,00,000/- and that the father of the deceased prayed that the dependents may be paid a total sum of Rs.20,00,000/-. It is to be noted that M/s.Teamlease Services Limited is not going to adjust Rs.3,00,000/- paid as compensation and that M/s.Kirloskar Brother Ltd., has also agreed to pay an additional sum of Rs.4,00,000/- on humanitarian grounds. In view of the above, the total amount including the compensation arrived at under the W.C.Act, 1923 together with interest works out to more than Rs.20,00,000/-. Therefore, this Court is of the view that the dependant father cannot demand any more amount than what is stated supra. This Court, instead of directing the Management of M/s.Teamlease Services Limited to deposit the compensation amount together with interest @ 12% p.a., within a period of 30 days from the date of receipt of a copy of this order, so that the amount could be withdrawn by the dependants till the amount is deposited, which will carry interest @ 12%, directs the Management straightaway to pay the amount directly to the parents of the deceased. The parents of the deceased shall furnish the Bank details to M/s.Team Lease Services Ltd., and M/s.Kirloskar Borthor Ltd., to transfer the respective amount through RTGS / NEFT and the parents shall furnish due receipt to the amount received. The remittance of the amount directly to the dependants of the deceased shall be intimated to the concerned Authority under the W.C.Act, 1923. It is needless to mention that since M/s.Kirloskar Brother Ltd., has been extending the monetary benefits on humanitarian ground, the said amount will not carry any interest. Taking note of the Covid situation, this direction is issued and the learned counsel for the petitioners in W.P.(MD) Nos.11813 of 2016 and 16864 of 2019 affirmed that the parents are the only dependants.

10. In the result, the Writ Petition filed by the father of the deceased is dismissed and the Writ Petition filed by M/s.Teamlease Services Limited is allowed with the above observation. No costs, consequently, connected W.M.P is closed.

11. Before parting with this common order, this Court would like to make an observation that whenever an employer deposits the amount before the Authority under W.C.Act, 1923, it is the bounden duty on the part of the Authority under W.C.Act, 1923 to receive the same, as the Act contemplates that the employer shall deposit the amount and intimate the accident that had taken place. Unless or otherwise, there is an interim order operating against the Authority with regard to deposit of the amount payable by the employer, mere



procedure to be adopted by the Authorities. In this case, though the Officer, who has passed the order is a knowledgeable person, by oversight, he has not accepted the amount, when the Management wanted to deposit the same before the Authority for the death of the son of the Writ Petitioner in W.P.(MD) No.11813 of 2016, which is not a mistake, but a mere error, as "To err is human".

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

SRM

To:

1. The District Collector,
Dindigul District, Dindigul.
2. The Insurance Regulatory and Development Authority,
3rd Floor, Parisrama Bhavan,
Basheer Bagh, Hyderabad, Telungana.
3. The Chairman and Managing Director,
Kirloskar Brother Ltd.,
Survey No.98, Hissa 3-7 Banner,
Pune, Maharashtra - 411 045.
4. The Manager,
Team Lease Service Pvt. Ltd.,
BMTC Commercial Complex,
6th Floor, 80 Feet Road,
Korammangala, Bangalore - 560 095.
5. The Deputy Commissioner of Labour,
Authority under the Employees Compensation Act, 1923,
84, Nehruji Nagar, 1st Street,
Dindigul.

+1cc to M/s.P.Malini, Advocate, SR.No.27130.

ORDER IN

W.P. (MD) Nos.11813 of 2016 and 16864 of 2019

23.12.2020

ES (CO)

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