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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.1660 of 2003

and

C.M.P.No.17266 of 2003

The General Manager,
Headquarters Office,
Southern Railway, Park Town,
Chennai - 600 003.

.. Appellant

Vs.

S.Muthuramalingam

.. Respondent

PRAYER : Civil Miscellaneous Appeal is filed under Section 30 of the Workmen's Compensation Act, praying to set aside the order of the Commissioner for Workmen's Compensation- I, Chennai - 600 006, dated 13.03.2000, made in W.C.No.12 of 2001 and dismiss the claim petition.

For Appellant : Mr.K.A.Ravindran

For Respondents : No Appearance

J U D G M E N T

The appellant herein is the respondent in W.C.No.12 of 2001 on the file of the Commissioner for Workmen's Compensation- I, Chennai - 600 006, which was filed by the claimant claiming compensation for the loss of earning due to the injury sustained by him during the course of his employment on 27.12.1998. After full trial, the Commissioner of Labour awarded compensation. Aggrieved by that, the Southern Railway preferred this appeal.

2. The following substantial questions of law arise for consideration in this appeal.

(i) Whether the finding of the



Commissioner for workmen's compensation, holding that the respondent herein is a workman within the meaning of definition under Section 2 (i) (n) (i) of the Workmen's Compensation Act?;

(ii) Whether the decision of the Commissioner in arriving compensation is in accordance with Section 4 (1) (c) (ii) of the Act?"

3. The facts reveals that the claimant was worked as a Chief Commercial Inspector under the appellant/Southern Railway and his nature of work was that only out door work and he has to meet the officers of different companies for collecting the documents and information and also to trace the consignments, lockers, parcels and wagons. While so, on 26.02.1998, as he was deputed to attend the case in a Court, proceeded to Bangalore and stayed at Railway Guest House. While taking a bath he slipped down, sustained injuries and took treatment as inpatient in the Hospital. Since the accident was happened during the course of his employment, he claimed compensation for the loss of earning. The railway also contested the claim that he is not a worker as he was employed at zonal administrative office at Chief Commercial Inspector. But on considering of the facts, the Commissioner of Labour awarded the compensation. Aggrieved by that, the railway preferred this appeal.

4. At the time of the arguments, learned counsel for the appellant submits that the claimant/Chief Commercial Officer is not a worker, so he is not entitled to file an application under the Workmen Compensation Act.

5. Apart from that, he also contested that he fell down, while taking bath and the same cannot be construed as action happened during the course of his employment. Accordingly, he prayed to allow the appeal.

6. By way of reply, the learned counsel for the appellant relied upon the decision of the High Court of Madras, Madurai Bench, in the case of District Forest Officer, Madurai Division, Madurai Vs. P.Ganesan, (died) (2007) ACJ 1521 (W.P. (MD).No.3036 of 2006, dated 29.09.2006) and the decision of this Court in B.Govindarajulu and another Vs. Thulasiraman (2008 (1) TNMAC 134).

7. The learned counsel for the appellant further argued that the claimant, though, is a Chief Commercial Officer, but he was engaged by the authorities and he looked after the work of checking up the wagons, collecting records and to receive various communications from the other company, in order to attend the Court work, he went to Bangalore and stayed in



guest house, at the time, he fell down and sustained injuries. Thereby, during the course of his employment, he sustained injury and he is entitled for the compensation.

8. On considering the ratio laid down in the decision of the High Court of Kerala, in the case of Oriental Insurance Company Vs. Thankappan and others (2006 ACJ 554) in W.P.No.15973 of 2005, dated 14.06.2005, the claimant sustained injuries, while he was staying at the guest house to attend the Court work, which was entrusted to him by the railway authority, thus the incident has happened during the course of his employment, when the claimant is entitled to claim compensation.

As per Section 2(1) (n) r/w schedule II of the Act. Accordingly, his claimant also come under the definition of the said workman reads as follows:

"employed in any such capacity as is specified in Schedule II.

Schedule II prescribes list of person workman withing the meaning of Section 2(1) (n) of the Act. Among the sub clauses, clause (viii) is relevant, which reads as follows:

(viii) employed in the construction, maintenance, repair or demolition of any road, bridge, tunnel or canal or

It is clear that any one employed in the construction, maintenance, repair or demolition of any road, bridge, tunnel or canal is a workman within the meaning of Section 2(1) (n) of the Act.

We have already referred to the specific case of the applicants that at the time of the accident, the deceased was working as Road Inspector. Though in the counter statement, it is stated that the deceased was a government servant eligible to get all death-cum-retirement benefits the fact that he was not an employee within the meaning of Section 2(1) (n) of the Act has not been substantiated by placing acceptable evidence. In the absence of any oral or documentary evidence before the Deputy Commissioner, we hold that though they had taken a plea, the same has not been established by placing any materials. Considering the details furnished by the applicants and in the light of the clause (viii) (c) of Schedule II, we



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are in agreement with the conclusion arrived at by the Commissioner, viz., that the deceased was a workman within the meaning of Section 2(1) (n) and inasmuch as he died in the course of his employment, the applicants are entitled to claim compensation under the provisions of workmen's compensation Act. There is no dispute with regard to the quantum of compensation arrived at by the Commissioner has considered the age, salary of the deceased and adopted a formula prescribed under the Act and arrived at the compensation, we are in agreement of the same."

9. Even though the claimant was employed as a Chief Commercial Officer, who is civil servant also a workman as discussed above and entitled to claim the compensation. Accordingly, the Commissioner of Labour rightly awarded the compensation, which calls for no interference by this Court. Hence, this Civil Miscellaneous Appeal is not maintainable. Accordingly, the substantial questions of law are answered.

10. Accordingly, this Civil Miscellaneous Appeal is dismissed and the order passed by the Commissioner for Workmen's Compensation- I, Chennai - 600 006, is confirmed. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/-
Assistant Registrar (CJ-Conf)

//True Copy//

Sub Assistant Registrar

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To

The Commissioner of Workman,
Compensation-1,
Chennai - 600 006.

+1cc to Mr.A.Shanmugaraj, Advocate, S.R.No.21482

C.M.A.No.1660 of 2003

RLD(CO)
SU(09/11/2021)