

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-01-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CMA No.833 of 2009

And

MP Nos.1 of 2009 and 1 of 2010

S.Natarajan

..

Appellant

vs.

1.Durai @ Vellai Durai

2.Rajarathinam

.. Respondents

PRAYER : Civil Miscellaneous Appeal is preferred under Section 30 of the Workmen Compensation Act, against the Award dated 22.09.2008 made in W.C.No.644 of 2006 on the file of the Deputy Commissioner of Labour-II, Chennai-6.

For Appellant : Mr.V.V.Sairam

For Respondent-1 : Mr.R.Nithyanandam

For Respondent-2 : Mr.R.Vijayakumar

J U D G M E N T

The Award dated 22.09.2008 passed in W.C.No.644 of 2006 by the Deputy Commissioner of Labour-II, Chennai, is under challenge in the present Civil Miscellaneous Appeal.

2. The first respondent one Mr.Durai @ Vellai Durai filed the claim petition, seeking compensation under Section 3 of the Workmen Compensation Act, 1923.

3. The first respondent/applicant is the Mason by profession. The appellant entrusted the work of constructing water tank to the second respondent under whom the first respondent was working as Mason. The appellant told the first respondent to construct a water tank in the top of the appellant's house measuring 7' x 7'. Accordingly, the first respondent started constructing the water tank along with one lady helper Tmt.Sulochana.

4. After starting the work, the appellant told the first respondent to build the water tank with the measurement of 10' x 10' for which the first respondent advised the appellant that it is not advisable to build the water tank in such measurements. But the appellant did not accede to the words of the first respondent and his helper Tmt.Sulochana and ordered to construct the water tank with the measurement of 10' x 10' in the top of his house.

5. The first respondent and his helper Tmt.Sulochanna started the constructing the work of water tank. On 17.05.2006, at about 07.30 P.M., the Saram fell down and thereby the first respondent as well as the helper Tmt.Sulochana fell down from the third floor to the ground and thereby both of them got severe injuries and especially, the first respondent got severe injuries all over his body and he has been hospitalised and taking treatment continuously. Thus, the first respondent sustained injuries during the course of his employment.

6. In this regard, the police arrested the second respondent-Contractor for an offence punishable under Section 337 of IPC. Though the first respondent advised the appellant not to construct the water tank on the top of his house, the appellant did not accede to his words and ordered the first respondent to construct the same and due to which, the first respondent sustained severe injuries and taking treatment in the hospital continuously. The first respondent suffered serious disability and he often gets guidance from Doctors and he is unable to stand for a longtime.

7. The appellant filed counter before the Deputy Commissioner of Labour contesting the case.

8. The factual aspects narrated by the claimant was disputed by the appellant as well as by the other opposite party. The Deputy Commissioner of Labour adjudicated the issues with reference to the documents and evidences produced.

9. The findings of the order passed by the Deputy Commissioner of Labour reveal that the first respondent met with an accident on 17.05.2006 and he sustained severe injuries. He was admitted in the Hospital and taken treatment continuously. Due to the abovesaid accident, the first respondent was unable to stand for a longtime.

10. Considering the facts and circumstances, the Deputy Commissioner of Labour, in clear terms, arrived a conclusion that the accident occurred during the course of employment. The sequence of facts and circumstances also reveals that the first respondent met with an accident and sustained injuries, while he

was performing his duties and responsibilities during the building construction works. At the time of accident, the first respondent was aged about 36 years.

11. Taking note of all these facts and circumstances, the Deputy Commissioner of Labour fixed the monthly salary of the first respondent as Rs.4,000/- and accordingly, granted total compensation of Rs.93,427/- along with interest at the rate of 12% per annum.

12. This Court is of the considered opinion that Workmen Act is a Welfare Registration. If the factum regarding the accident is established and the employer-employee relationship is established, then the Deputy Commissioner of Labour has to award compensation by adopting the principles as contemplated under the provisions of the Workmen Compensation Act, 1923.

13. In the present case, the factum regarding the accident was established and the accident occurred during the course of employment and the first respondent sustained severe injuries on account of the accident and the employer-employee relationship was also established beyond any pale of doubt. This being the factum, there is no infirmity or perversity in respect of the Award passed by the Deputy Commissioner of Labour in awarding compensation.

14. Accordingly, the Award dated 22.09.2008 passed in W.C. No.644 of 2006 by the Deputy Commissioner of Labour-II, Chennai, stands confirmed and consequently, Civil Miscellaneous Appeal No.833 of 2009 stands dismissed. However, there shall be no order as to costs. The connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar (CS-III)

//True Copy// सत्यमेव जयते
Sub Assistant Registrar

Svn

To

The Deputy Commissioner of Labour-II,
Chennai.

C.M.A.No.833 of 2009

MP (CO)
CB(02/03/2021)