

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-01-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CMA No.832 of 2009

And

MP No.1 of 2009

S.Natarajan

..

Appellant

vs.

1.R.Pandian

2.Rajarathinam

3.Durai @ Vellai Durai

.. 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.611 of 2006 on the file of the Deputy Commissioner of Labour-II, Chennai.

For Appellant : Mr.V.V.Sairam

For Respondent-1 : Person Not Found

For Respondent-2 : Mr.R.Vijayakumar

For Respondent-3 : Mr.R.Nithyanandam

J U D G M E N T

The Award dated 22.09.2008 passed in W.C.No.611 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.R.Pandian filed the claim petition, seeking compensation under Section 22 of the Workmen Compensation Act, 1923.

3. The first respondent/applicant is the son of the deceased Tmt.Sulochana, who died on 30.05.2006 during the course of her employment, more specifically, while she was working under the appellant. The mother of the first respondent, at the time of her death, was aged about 38 years. The first respondent is a differently abled person and sole legal heir as well as the

dependent of the deceased.

4. The mother of the first respondent Tmt.Sulochana was working as Chittal in building construction work for two years. The mother of the first respondent was living separately and his father was not maintaining the mother as well as himself. On 17.05.2006, the building work commenced at 09.30 A.M. The appellant provided instructions to Chittals to perform their works in the one storeyed building and the water tank was under construction on the roof of the building. At about 05.30 P.M., the mother of the first respondent and one Mr.Durai, who was also the opposite party, were applying concrete upon the steel sheets. Both of them were standing on the Steel Rods that were placed on pillars, erected to support the water tank. At that time, the mother of the first respondent received the mixture and put it on the steel sheet and the other opposite party also applied the same evenly. The mother of the first respondent fell down and caught hold the branch of a tree next to the building. The mother of the first respondent lost her balance and fell down on the floor. She sustained severe injuries and became unconscious. She was admitted in Tambaram Hindu Mission Hospital, Chennai and there was a delay in taking her to the hospital. Thereafter on 30.05.2006, the mother of the first respondent died in General Hospital at EVR Road, Chennai. FIR was registered on 20.05.2006. Based on the complaint given by one Mr.G.Ravi, a criminal case was also instituted against the appellant.

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

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

7. The findings of the order passed by the Deputy Commissioner of Labour reveal that the mother of the first respondent deceased Sulochana met with an accident on 17.05.2006 and after treatment, she died on 30.05.2006.

8. 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 mother of the first respondent met with an accident and sustained injuries, while she was performing her duties and responsibilities during the building construction works.

9. Taking note of all these facts and circumstances, the Deputy Commissioner of Labour fixed the monthly salary of the deceased as Rs.4,000/- and accordingly, granted total compensation of Rs.3,96,620/- along with interest at the rate of 12% per annum.

10. 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.

11. In the present case, the factum regarding the accident was established and the accident occurred during the course of employment and the deceased Sulochana died 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.

12. Accordingly, the Award dated 22.09.2008 passed in W.C. No.611 of 2006 by the Deputy Commissioner of Labour-II, Chennai, stands confirmed and consequently, Civil Miscellaneous Appeal No.832 of 2009 stands dismissed. However, there shall be no order as to costs. The connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Svn

To

The Deputy Commissioner of Labour-II,
Chennai.

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

C.M.A.No.832 of 2009