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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A. No. 1257 of 2016
and C.M.P.No.9548 of 2016

Thirunavukkarasu ... Appellant / Respondent

Vs

Vasanthi ... Respondent / Petitioner

Prayer: The Civil Miscellaneous Appeal filed under Section 30 of Workmen's Compensation Act, 1925, to set aside the Order dated 03.11.2014 (Received on 19.01.2015) made in W.C.No. 358 of 2008 on the file of the Deputy Commissioner of Labour/Commissioner of workmen's Compensation, Salem.

For Appellant : Mr. N.Manokaran

For Respondent : Served, No Appearance

JUDGMENT

This appeal has been filed challenging the Order dated 03.11.2014, passed by the Deputy Commissioner of Labour/Commissioner of Workmen's Compensation, Salem, in W.C.No.358 of 2008.

2. Under the impugned order, the Deputy Commissioner of Labour/Commissioner of Workmen's Compensation, Salem has directed the appellant to pay a compensation of Rs.69,694/- (Rupees Sixty Nine Thousand Six Hundred and Ninety Four only) together with interest at 12% to the respondent.

3. Heard Mr.N.Manokaran, the learned Counsel for the appellant and the respondent has been duly served and her name is also printed in the cause list today. The appellant, who is the



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employer has challenged the impugned order on the following grounds:

a) Employer - Employee relationship has not been proved by the respondent before the Deputy Commissioner of Labour.

b) the First Information Report was registered only on 29.05.2007 and on the said First Information Report, the date of the accident is mentioned as 25.05.2007, whereas, the alleged accident had taken place on 04.05.2007, which resulted in the respondent sustaining injuries. Therefore, there are contradictions in the statement made by the respondent and therefore the Deputy Commissioner of Labour ought not to have held the appellant liable to pay the compensation.

c) the appellant has already been acquitted by the Criminal Court in STC No. 874 of 2008. Therefore, the Deputy Commissioner of Labour ought to have taken into consideration the aforesaid factor also and exonerated the liability of the appellant.

d) The medical evidence as seen from the Doctor's disability certificate (Ex.A7) reveals that the respondent was having only "infected wounds". Therefore, according to the appellant, the meaning of the word "infected wounds" is the formation of pus about 36 to 48 hours prior to become septic and therefore according to the appellant, the respondent did not sustain injuries as a result of the accident during the course of her employment with the appellant.

4. The appellant has raised following substantial questions of law in his grounds of appeal:

a) Whether the learned Commissioner is right in ignoring the order of acquittal made in STC No.874 of 2008 passed by the learned



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Judicial Magistrate No., 2, Gobichettipalayam wherein the trial court has rejected the claim of the injuries in the course of the alleged occurrence?

b) Whether the commissioner erred in law in holding that the appellant is liable to pay compensation especially when there was no privity of contract between the appellant and respondents?

c) Whether the learned commissioner is correct in law in fixing the liability on the appellant especially when the medical evidence runs contra to the case pleaded by the respondent?

5. The learned Counsel for the appellant drew the attention of this Court to the application filed by the respondent seeking compensation as well as the counter statement filed by the appellant denying the liability before the Deputy Commissioner of Labour, Salem. He also drew the attention of this Court to the impugned order and would submit that the grounds raised by the appellant in this appeal were not considered by the Deputy Commissioner of Labour in accordance with law. According to him, the employer-employee relationship has not been proved by the respondent and the nature of the injuries sustained by the respondent, as seen from the disability certificate (Ex.A7), clearly reveals that the injuries sustained by the respondent was not as a result of the accident and during the course of her employment with the appellant.

6. This Court has perused and examined the impugned order as well as the application filed by the respondent before the Deputy Commissioner of Labour. The contentions raised by the appellant in this appeal have been duly considered by the Deputy Commissioner of Labour in the impugned order. The question of employer-employee relationship raised by the appellant was also considered by the Deputy Commissioner of Labour and the nature of injuries sustained by the respondent which has been raised in this appeal has also been duly considered under the impugned order. Any claim under the Workmen Compensation Act, by a victim, has to be adjudicated based on the preponderance of



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probabilities. The Deputy Commissioner of Labour has passed the impugned order only based on the said principles by directing the appellant to pay a compensation of Rs,69,694/- (Rupees Sixty Nine Thousand Six Hundred and Ninety Four only) together with interest at 12%, to the respondent.

7. This appeal has been filed under Section 30 of the Workmen's Compensation Act, 1925 and only when substantial questions of law are involved, this Court can entertain this appeal.

8. The issues raised by the appellant in this appeal are all factual issues which have been duly considered by the Deputy Commissioner of Labour. There are no debatable issue of law involved in this appeal. Therefore, there is no merit in this appeal. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

rgi

To

1. The Deputy Commissioner of Labour/Commissioner
of workmen's Compensation,
Salem.

Copy To:

The Section Officer,
V.R.Section, High Court, Madras - 104.

+1cc to M/s.N.Manokaran, Advocate, S.R.No.50424

C.M.A. No. 1257 of 2016

PMK(CO)
SB(01/11/2021)