

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.02.2021
CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2742 of 2015
M.P.No.1 of 2015

1.The Proprietor,
V.C.R.Timber Yard,
No.9, Sembiam High Road,
Kathirvedu,
Chennai-600 066.

2.The Manager,
V.C.R.Timber Yard,
No.9, Sembiam High Road,
Kathirvedu,
Chennai-600 066.

.. Appellants

vs.

Venkatesan

.. Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 30 of Workmens Compensation Act, 1923 against the order and decreetal order dated 28.03.2014 in WC.NO.397/2008 on the file of the Commissioner of Workmen's Compensation-II, Chennai-6 (Deputy Commissioner of Labour-II, Tenampet, Chennai-6).

For Appellants : Mr.George Graham
for M/s.Devadason and Sagar

For Respondents : No-appearance

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O R D E R

The award dated 28.03.2014 passed in W.C.No.397 of 2008 is under challenge in the present Civil Miscellaneous Appeal.

2. The substantial questions of law raised in the appeal are under:

1. Whether the find given by the 2nd respondent that the 1st appellant is having a yard at No.9,

Sembiam High Road, Kathirvedu, Chennai-600 066 and that the 1st respondent suffered injury in the force of employment at the said yard and consequently entitled to compensation is sustainable when the appellants denied that there is such an yard at No.9, Sembiam High Road, Kathirvedu, Chennai-600 066.

2. Whether the 1st respondent has let in any evidence to show that there is such yard in existence and in such circumstances is not the finding of 2nd respondent is erroneous and not based upon any legally acceptable evidence.

3. Whether the order of the 2nd respondent is sustainable in law and there is no evidence to show that the 1st respondent sustains injuries in the course of employment for which he is entitled for compensation.

3. A perusal of the substantial question of law reveals that all relates to factual aspects and the appellant has not raised any acceptable substantial question of law so as to interfere with the findings of the award. The first respondent filed an application under Section 10(2) of the Workmen's Compensation Act seeking compensation on the ground that while he was working as a coolie with the appellant in his Timber Lorry and drawing a monthly salary of Rs.250/- per day, on 03.12.2006 at about 3.00 p.m., he got injured while shifting the wood from one place to another during the course of employment. The first respondent/employee sustained grievous injuries. He took treatment in the hospital and thereafter, filed an application seeking compensation. The Deputy Commissioner of Labour adjudicated the issues with reference to the documents and evidence produced by the respective parties. The findings of the Deputy Commissioner of Labour reveal that the first respondent was working as an employee and the accident occurred during the course of employment. The Deputy Commissioner of Labour considered the fact that he was working as a coolie in the Timber lorry and the accident occurred during the course of employment. However, when such a finding is arrived with reference to the facts and circumstances as well as the evidence placed, this Court cannot interfere in the absence of any clinching evidence to review the findings. Even the substantial questions of law raised in the appeal are relatable to the facts which cannot be adjudicated as the Deputy Commissioner of Labour made a clear finding that the factum regarding the accident was established and the accident occurred during the course of employment.

4. This being the facts and circumstances, this Court is not inclined to interfere with the findings of the award. Accordingly, the award dated 28.03.2014 passed in W.C.No.397 of 2008 stands confirmed and consequently, Civil Miscellaneous Appeal stands dismissed. The first respondent/claimant is permitted to withdraw the entire award amount with accrued interest by filing an appropriate application and the payments are to be made through RTGS. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS)

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Sub Assistant Registrar

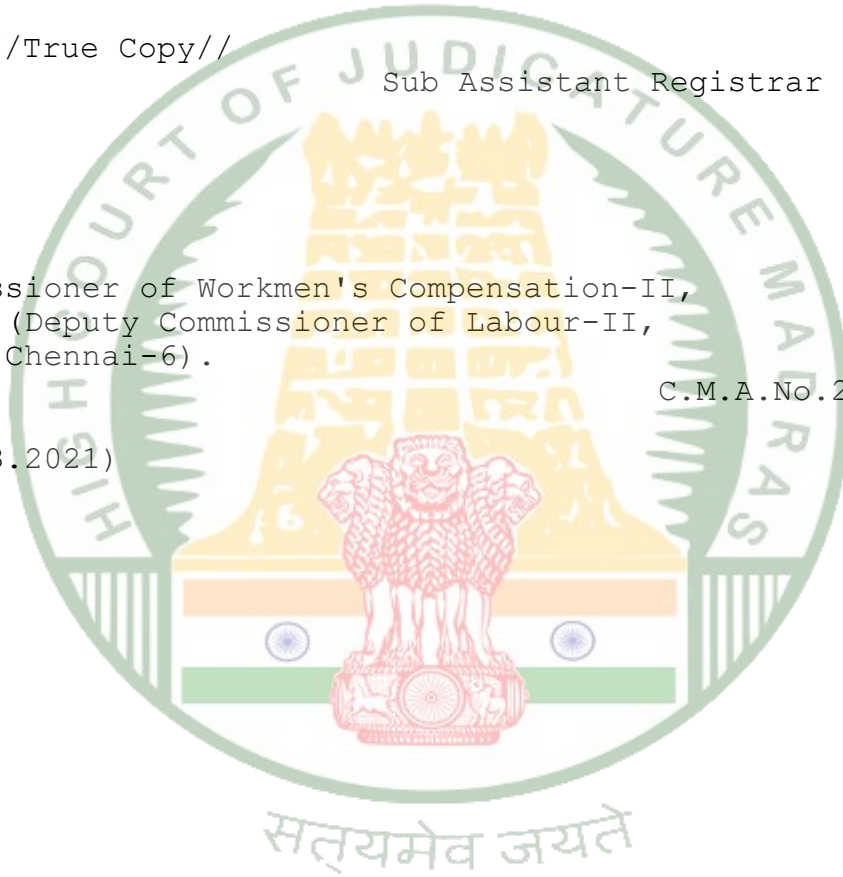
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To

The Commissioner of Workmen's Compensation-II,
Chennai-6 (Deputy Commissioner of Labour-II,
Tenampet, Chennai-6).

C.M.A.No.2742 of 2015

A.SK(12.03.2021)



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