

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.03.2021
CORAM
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
C.M.A.No.2529 of 2013

1.Suseela Mary
2.Minor Filomina
3.Minor.Praveenraj
(Minor Petitioners 2 and 3
Rep.by their next friend
and guardian the 1st petitioner
herein)
4.Anthonymuthu Nadar

..Appellants

Vs.

Rangaraj

..Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act No.8 of 1923 against the award dated 01/03/2012 passed in W.C.No.60 of 2009 on the file of the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Coimbatore.

For Appellants : M/s.Elizabeth Ravi
For M/s.S.Subbiah

For Respondent : Mr.A.Deivasigamani

J U D G M E N T

The Award dated 01.03.2012 passed in W.C.No.60 of 2009 is under challenge in the present Civil Miscellaneous Appeal.

2. The claimants are the appellants. The Claim Petition was filed under the Workmen Compensation Act on the ground that the husband of the first appellant on 06.03.2009 was working in a Building Centering Work. While removing the Centering materials at Door No.16, Loids Avenue, 3rd Cross Street, Sundaraapuram, Coimbatore, the deceased Ravi slipped and fell down and sustained grievous injuries and thereafter died. The Claim Petition was filed. The very fact regarding the accident in a building itself was disputed by the respondent. In order to establish the said contention, it is contended that in respect of the said building, in which, the accident occurred, the works were completed in all respects on 08.12.2008 and the building was leased out in favour of one Mr.Sundarraaj on 15.02.2009. However, the claimants said that the accident occurred on

06.03.2009. As per the respondent, the building was leased out in favour of the said Sundarraaj by way of an agreement on 15.02.2009 itself. Thus, the deceased Ravi was not working in the said building on the date of accident and therefore, the claimants have not established that the accident occurred during the course of employment.

3. The learned counsel for the appellants made a submission that though the building works were completed, the Stock holds were not removed. Therefore, the said materials were removed on 06.03.2009 and while removing the centering materials, the deceased fell down and sustained injuries.

4. This Court is of the considered opinion that after removing the centering materials only, the plastering works would have been done. In view of the fact that the lease deed was produced by the respondents and the said building was leased out in favour of some third person and he took possession of the building, the onus lies on the claimants to establish that the deceased workman was employed in that particular building. However, the appellants/claimants could not able to prove their statement with an acceptable evidence.

5. Under these circumstances, the Deputy Commissioner of Labour considered the facts and circumstances and arrived a conclusion that the appellants could not able to establish that the accident occurred in the said building and the deceased fell down and sustained injuries during the course of employment. In the absence of any such proof to that effect, the Deputy Commissioner of Labour rejected the Claim Petition and this Court do not find any perversity or infirmity as such. Mere statement that while removing Centering materials, the deceased sustained injuries is insufficient to establish the accident. In the present case, the respondent could able to produce the lease deed and as per the lease deed, the building was completed in all respects and leased out to some third party even before the date of accident. This being the factum established, the award dated 01.03.2012 passed in W.C.No.60 of 2009 stands confirmed and the Civil Miscellaneous Appeal in C.M.A.No.2529 of 2013 stands dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Commissioner for Workmen's Compensation,
(Deputy Commissioner of Labour), Coimbatore.

+1cc to M/s.Elizabeth Ravi, Advocate Sr.No.17051

+1cc to M/s.G.B.Saravanabhavan, Advocate Sr.No.17027

C.M.A.No.2529 of 2013

GSM(CO)
NR 17/04/2021



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