

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.471 of 2016 and
C.M.P.No.3628 of 2016

M/s.Associated Civil Constructions (P) Limited,
Plot No.42/43, V.G.P.Santhanammal Nagar,
Gowrivakkam, Chennai 601 302.

...Appellant/Respondent

Vs.

Mr.K.Subramani

...Respondent/Claimant

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Employees Compensation Act, 1923, against the award dated 30.09.2015 in W.C.No.373 of 2006 by the Deputy Commissioner of Labour-II, Workmen Compensation, Chennai.

For Appellant : Mr.R.Munuswamy

For Respondent : Mr.K.V.Muthuvisakan

JUDGMENT

The award dated 30.09.2015 passed in W.C.No.373 of 2006, is under challenge in the present civil miscellaneous appeal.

2. The substantial questions of law raised in the appeal are that had not the authority caused miscarriage of justice in not appreciating and considering the preliminary issue raised by the appellant as to whether the respondent/claimant proved the employer and employee relationship. Admittedly, the doctor who has given disability certificate, has not treated the claimant. Therefore, the disability percentage fixed by the Deputy Commissioner of Labour is incorrect. While deciding the quantum of monthly salary, the Deputy Commissioner of Labour is not in consonance with the provisions of the Act. The authority has erred in not appreciating the humane tendency shown by the appellant. All the substantial questions of law raised is related to the factual aspects as far as the employee employer relationship is concerned.

3. A claim petition was filed by the respondent mainly on the ground that when he was working at the second floor of the building standing on the scaffolding at Plot No.17, Gate No.6, Saibaba Koil Street, Gowriwakkam, the other workers removed the scaffolding, thereby the claimant fell down from the second floor to ground floor on 20.12.2005. The claimant sustained grievous and multiple injuries all over the body and the disability was assessed as 70% by the doctor.

4. The Deputy Commissioner of Labour adjudicated the issues with reference to the documents and evidences. The findings of the award reveals that the appellant had denied the employee employer relationship. However, the fact remains that the appellant has spent Rs.35,000/- towards medical expenses, soon after the claimant met with an accident. It is unbelievable that only on humanitarian ground, the appellant has spent a sum of Rs.35,000/- towards medical expenses for unknown person. When the fact remains that the claimant was working in the second floor of the building under construction and the construction activated was undertaken by the appellant construction company, there is no reason to believe the statement made by the appellant in this regard.

5. Undoubtedly, the medical expenses could not have been spent on humanitarian ground. The fact remains that the accident was immediately known to the appellant company and admitted the claimant in hospital, this fact is sufficient to draw factual inference that the employee employer relationship existed at the time of accident. This apart, as per Ex.P.W.1 deposition, he could able to establish that he is an employee under the appellant Construction Company. The Deputy Commissioner of Labour considered all these issues and fixed the liability on the appellant by awarding compensation of Rs.1,94,532/- along with interest at the rate of 12% per annum. This Court did not find any perversity or infirmity as such in respect of the finding arrived and the quantum of compensation awarded in favour of the claimant. सत्यमेव जयते

6. Accordingly, the award dated 30.09.2015 in W.C.No.373 of 2006, stands confirmed and C.M.A.No.471 of 2016 stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gsk

To

1.The Deputy Commissioner of Labour-II,
Workmen Compensation, Chennai.

2.The Section Officer, VR Section,
High Court, Chennai 104.

+1cc to Mr.K.V.Muthuvisakan, Advocate, S.R.No.3824

+1cc to Mr.R.Munuswamy, Advocate, S.R.No.4416

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CA (CO)
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