

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.508 of 2016 and  
C.M.P.No.4303 of 2016

Gayathri Nathan

... Appellant

Vs.

1.Isakkiammal  
2.Minor Isakki Sankar  
3.Minor Isakkiammal  
4.Velammal  
5.Rajan  
6.Vikram P.Kajjar  
(Minors rep.by their Mother and  
Guardian Isakkiammal)

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Employees Compensation Act, 1923, against the fair and decreetal order dated 16.10.2015 made in E.C.No.16 of 2012 on the file of the Commissioner of Workmen Compensation / Deputy Commissioner of Labour, Coimbatore.

For Appellant : Mr.S.Mukunth  
For Respondents : No appearance for R1 to R4  
R5 & R6 - NRN

JUDGMENT

The decreetal order dated 30.11.2015 passed in E.C.No.16 of 2012, is under challenge in the present civil miscellaneous appeal.

2. The third respondent in the claim petition is the appellant in the present appeal. The petition was filed by the respondents 1 to 4 claiming compensation mainly on the ground that the deceased sudalaimuthu is the husband of the first claimant and the father of the other two minor claimants. On 28.10.2010, when the deceased sudalaimuthu was working in the building belongs to the appellant, got electrocuted and died immediately. A criminal case was registered in Crime No.1454 of 2010. The legal heirs of the deceased filed an application seeking compensation.

3. The Deputy Commissioner of Labour adjudicated the issues with reference to the documents and evidences produced by the respective parties. Perusal of the award reveals that the employee employer relationship existed at the time of the accident as the deceased was working in the building constructed

by the appellant. The factum regarding the electrocution was also established and a criminal case was also registered in this regard. Thus, there is no error in respect of the finding with reference to the factum regarding the accident.

4. The learned counsel for the appellant mainly contended that the appellant is the principal employer who engaged the respondents 5 and 6 as Mason and contractor. The Deputy Commissioner of Labour fixed the liability on the appellant as a principal employer and failed to permit the appellant to recover the compensation from the contractor and mason who actually employed the deceased for work in the construction building.

5. This Court is of the considered opinion that the factum regarding the accident was established and the deceased died during the course of employment. The Deputy Commissioner of Labour has rightly fixed the liability on the principal employer as per the provisions of the Act. However, the principal employer is entitled to recover the award amount from the mason and contractor who actually employed the deceased. In the present case, the appellant has to settle the compensation amount at the first instance to the legal heirs of the deceased and thereafter recover the same from the respondents 5 and 6.

6. Accordingly, the fair and decreetal order dated 30.11.2015 passed in E.C.No.16 of 2012, stands confirmed with reference to the liability fixed on the appellant for payment of compensation along with interest is concerned. However, the appellant is permitted to recover the award amount with interest from the respondents 5 and 6 who are the mason and contractor.

7. With this modification, the award dated 30.11.2015 passed in E.C.No.16 of 2012, stands modified. Consequently, C.M.A.No.508 of 2016, stands allowed in part. No costs. Consequently, connected miscellaneous petition is closed.

8. The major respondents alone are permitted to withdraw their respective portion of the award by filing an appropriate application and payments are to be made through RTGS. As far as the minor respondents are concerned, the said amount shall be deposited in an interest bearing scheme in any one of the Nationalised Bank and renewed periodically till they attain majority.

Sd/-  
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Commissioner of Workmen Compensation /  
Deputy Commissioner of Labour, Coimbatore.

+1cc to M/s.Sarvabhauman Associates, SR.NO.3845

AKM/04.03.21/ 3P-3 C/

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