

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1855 of 2018

and

C.M.P.No.14328 of 2018

1.The Executive Engineer,
Tamilnadu Agricultural Marketing Board,
CIPET Road, Thiru.Vi.Kha.Industrial Estate,
Guindy, Chennai - 600 032.

2.The Assistant Executive Engineer,
Tamilnadu Agricultural Marketing Board,
M/Paa.Erode Marketing Committee,
Vidhya Nagar, Thindal, Erode - 638 012.

..Appellants/Respondents 2 & 3

Vs.

1.Mrs.P.Chitra
2.Minor Narendhiran
3.Minor Madankumar
(Minors are represented by their next friend
and natural guardian mother P.Chithra)

4.State, Rep.by
The District Collector,
Erode District, Erode.

5.M/s.Green land Authorities,
D.No.80, Plot No.A-62,
Highways Nagar, Salem - 636 012.

6.Mr.Sekar

7.Mrs.Theerammal ..Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 30(1) of the Workmen's(Employees) Compensation Act, against the order of the Commissioner for Workmen's Compensation, Gunnur in W.C.No.49/2016 (Old W.C.No.74/2014) dated 30.04.2018.

For Appellants

:

Mr.V.Elango

For Mr.V.Jayaprakash Narayanan

For Respondents : No appearance for R1 to R3&R6
R4 & R5 - Not ready in notice
R7 - Died

J U D G M E N T

The Award dated 30.04.2018 passed in W.C.No.49/2016 is under challenge in the present Civil Miscellaneous Appeal.

2. The Substantial question of law raised by the appellant reads as under:

"(i) Whether the Workmen Compensation Act, 1923, will be applicable to the appellant Market Committee functioning under the statute namely Tamilnadu Agricultural Produce Marketing (Regulation) Act, 1959.

(ii) If the labour laws are not applicable to Appellant being Organization formed by Government of Tamilnadu under Tamilnadu Agricultural Produce Marketing (Regulation) Act, 1959, with object of providing better facilities to the farmers, it is bound to pay compensation under Workmen Compensation Act?

(iii) Assuming the appellants are the Principal Employer can it be clothed with absolute responsibility without any liability to the contractor the fifth respondent herein whom a written contract was entered by the Appellants wherein the Contractor specifically indemnifying to pay compensation in case of any accident?

(iv) Whether the Commissioner of Workmen's Compensation is correct in not ordering recovery of compensation by the appellant from Contractor fifth respondent herein as per Section 12(2) of the Workmen's Compensation Act?"

3. The learned counsel appearing on behalf of the appellants mainly contended that the appellant / Marketing Committee is functioning under the Statute and therefore, the Labour Laws are not applicable to the appellants. It is contended that the appellants are the Principal employers and therefore, the 5th respondent/Contractor is liable to pay the compensation.

4. The respondents 1 to 3 are the claimants and the Claim Petition was filed under Section 10 of the Workmen's Compensation Act mainly on the ground that on 26.03.2008, when the husband of the 1st respondent Mr.Perumal was working under the authority of the appellant about 03.00 p.m., during the

course of employment, all of a sudden, fell down from the Iron roofing portion of the above said building under the authority of the Executive Engineer at a height about 20 feet from the ground level. Immediately, he was brought to Maturhi Hospital at Erode and treatment was provided. Subsequently, he was taken to Government Hospital, Erode for further treatment and due to shock and Hemorrhage due to his multiple grievous injuries, he died on 28.03.2008.

5. The application was filed seeking compensation. The Deputy Commissioner of Labour adjudicated the issues with reference to the documents and evidences produced by the respective parties. The factum regarding the accident was established. Admittedly, the appellants have engaged the Contractor/5th respondent. The deceased was working in the Project for the Tamil Nadu Agricultural Marketing Board. Therefore, the Principal employer is the appellant and the accident occurred during the course of employment. When all these factors are established beyond doubt, the Deputy Commissioner of Labour arrived a conclusion that the appellant is the Principal employer and therefore, the compensation is to be paid by the Principal employer and they are at liberty to recover the said amount from the contractor, under whom, the deceased was working.

6. In this regard, the Deputy Commissioner of Labour relied on Section 12 of the Act and further, the documents filed before the Deputy Commissioner of Labour also revealed that there was a contract between the appellant and the 5th respondent and while performing the works, the deceased died. Thus, the Deputy Commissioner of Labour passed an award, granting compensation and further, granted liberty to the appellant / Principal employer to pay the compensation amount and recovery the same from the 5th respondent / Contractor. Thus, there is no infirmity or perversity as such. The Deputy Commissioner of Labour rightly proceeded based on the provisions of the Act. Once, the factum regarding the accident was established beyond any doubt and such an accident occurred during the course of employment, and the employer-employee relationship also existed and further, the appellant is the Principal employer, the Tribunal has rightly considered and directed the Principal employer to settle the compensation immediately and recover the same from the contractor.

7. In view of the facts and circumstances, this Court do not find any reason to interfere with the findings of the Award passed by the Deputy Commissioner of Labour and the substantial

question of law raised are relatable to facts and circumstances and therefore, no further adjudication needs to be undertaken and accordingly, the Award dated 30.04.2018 passed in W.C.No.49/2016 stands confirmed and the Civil Miscellaneous Appeal in C.M.A.No.1855 of 2018 is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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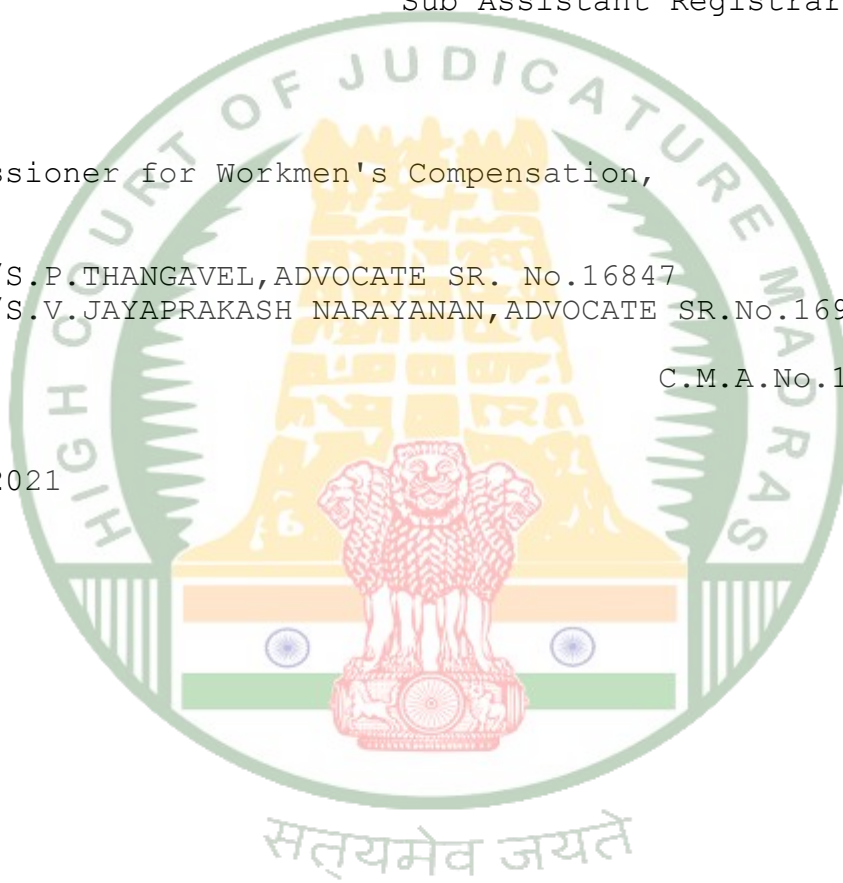
The Commissioner for Workmen's Compensation,
Gunnur.

+1CC TO M/S.P.THANGAVEL,ADVOCATE SR. No.16847

+1CC TO M/S.V.JAYAPRAKASH NARAYANAN,ADVOCATE SR.No.16962

C.M.A.No.1855 of 2018

AAB (CO)
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