

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-01-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CMA No.764 of 2014

And

MP No.1 of 2014

P.Pandithurai

..

Appellant

vs.

1.Deputy Commissioner of Labour,
DMS Campus,
Teynampet,
Chennai.

2.Markandan @ Markandeyan

3.Raghu

.. Respondents

PRAYER : Civil Miscellaneous Appeal is preferred under Section 30 of the Workmen Compensation Act, against the Award dated 07.07.2010 made in W.C.No.193 of 2007 on the file of the Deputy Commissioner of Labour-I, Chennai.

For Appellant : Mr.S.Kumaresan

For Respondent-1 : Mr.S.Jaganathan,
Government Advocate.

For Respondents-2 & 3 : No Appearance

J U D G M E N T

The Award dated 07.07.2010 passed in W.C.No.193 of 2007 by the Deputy Commissioner of Labour-I, Chennai, is under challenge in the present Civil Miscellaneous Appeal.

2. The appellant is the owner of the building in which the claimant worked, fell down and sustained injuries.

3. The second respondent Mr.Markandeyan filed an application in WC No.193 of 2007 before the Deputy Commissioner

of Labour-I, Chennai under Section 10(1) of the Workmen Compensation Act, seeking compensation on the ground that on 17.07.2006, the third respondent Mr.Raghu engaged the second respondent for performing painting works in the house belonged to the appellant-Pandithurai on payment of Rs.200/- per day was fixed as wages.

4. On 17.07.2006 at about 11.00 hours, while the second respondent Markandeyan was performing his painting work in the house owned by the appellant, fell down from 15 feet height and sustained multiple grievous injuries. He was admitted in the Hospital as inpatient and undergone surgeries and was discharged on 16.08.2006. Thus, he filed the application before the Deputy Commissioner of Labour, seeking compensation.

5. The Deputy Commissioner of Labour adjudicated the issues with reference to the documents and the evidences produced by the respective parties and passed an Award, granting a sum of Rs.3,12,350/- as compensation. Challenging the said Award, the present Civil Miscellaneous Appeal is filed by the appellant.

6. The substantial questions of law raised by the appellant are that whether the first respondent is right in directing the appellant to pay compensation, when the second respondent was working only under the care and guidance of the third respondent-Contractor?; whether the first respondent is right in holding that the appellant is the principal of the third respondent and comes under vicarious liability?; whether the first respondent is right in holding that the appellant is liable to pay the compensation, especially when the second respondent has not produced either oral or documentary evidence to substantiate his case that he was working under the appellant?; and whether the first respondent is right in holding that the appellant is liable to pay compensation, especially when the third respondent, who is the Contractor, for the work done in the premise of the appellant?.

7. Most of the substantial questions of law raised are relate to the factual aspects and the only question mainly raised is that whether the Principal owner of the building can be construed as a Principal-employer, so as to fix the liability for payment of compensation.

8. The Deputy Commission of Labour made a categorical finding that the factum regarding the accident was established. The second respondent-claimant fell down during the course of his employment and he sustained multiple grievous injuries. Mr.Raghu was also working in the same building and performing the painting works. The third respondent-workman was working in

the same house and therefore, the principal-employer is held liable to pay compensation. The third respondent-Mr.Raghu may be a Contractor for arranging the works. However, three workmen altogether worked in the house and all the three workmen were engaged by the appellant-Pandithurai in order to perform painting works in his house.

9. This being the factum, the Deputy Commissioner of Labour arrived a finding that the appellant is the principal-employer and is vicariously liable to pay compensation under the Workmen Compensation Act. Even as per the cross-examination, the third respondent-Mr.Raghu deposed that the house was belonged to the appellant and they were doing the coolie works. No contract was awarded to Mr.Raghu. Further, Mr.Raghu has stated that the appellant-Pandithurai called all the three workmen to complete the painting works in his house. He has also stated that even the wages were not paid to them.

10. This being the cross-examination, there is no perversity, as such, in respect of fixation of liability on the principal-employer, namely, the appellant.

11. This Court is of the opinion that the monthly income of the workmen was fixed as Rs.4,000/-. Thus, there is no infirmity, as such, regarding the quantum of compensation awarded.

12. In view of the facts and circumstances, the Deputy Commissioner of Labour has rightly fixed the liability on the principal-employer and awarded compensation by fixing the monthly income as Rs.4,000/-.

13. In this view of the matter, the Award dated 07.07.2010 passed in W.C. No.193 of 2007 by the Deputy Commissioner of Labour-I, Chennai, stands confirmed and consequently, Civil Miscellaneous Appeal No.764 of 2014 stands dismissed. However, there shall be no order as to costs. The connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar

Svn
To

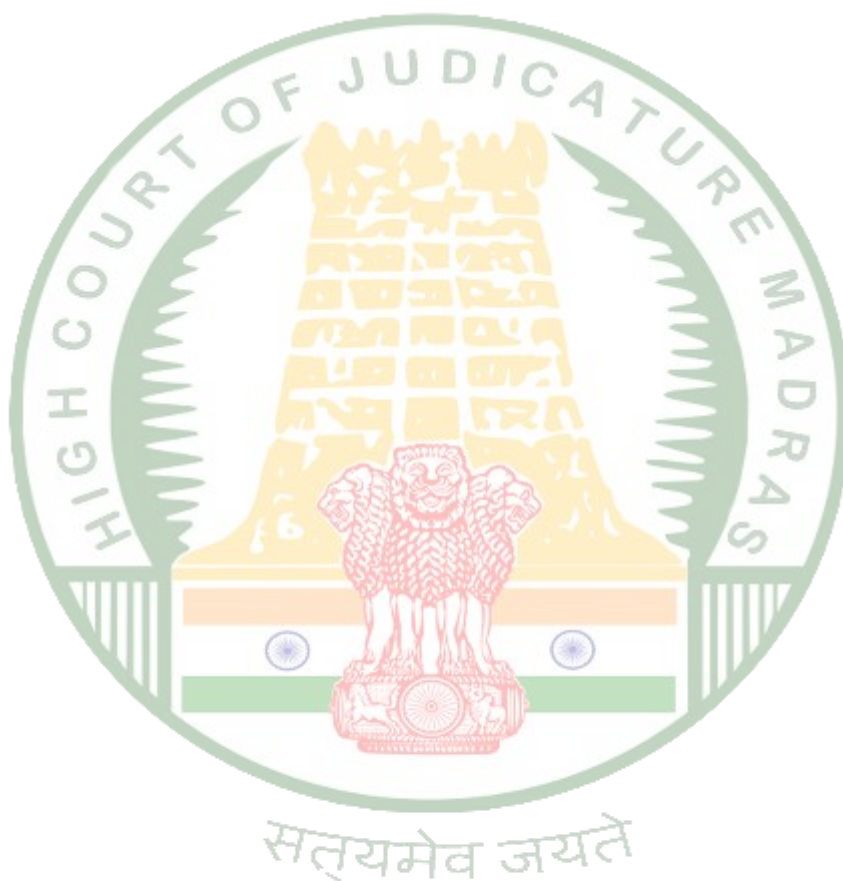
The Deputy Commissioner of Labour-I,
Chennai.

Copy to:
The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to M/s.S.Kumaresan, Advocate SR.3820

C.M.A.No.764 of 2014

SSV(CO)
CB(29/03/2021)



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