

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD).No.3479 of 2017
and C.M.P.No.16178 of 2017

E.J.Tensingh

... Petitioner

Vs.

1. Hafeeza Kanam
2. Asmath Nisha
3. S.Akil Basha
4. Mumtaz
5. Varun

... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 14.06.2017 passed by the learned Workmen Compensation Commissioner-I, Chennai in I.A.No.66 of 2016 in W.C.No.63 of 2015 on the filed of the Workmen Compensation Commissioner-I Tribunal, Chennai.

For Petitioner : Mr.R.L.Lakshmi Ratan

For Respondents

For R1 to R4 : Mr.C.R.Malarvannan

For R5 : No appearance

ORDER

This Civil Revision Petition is directed as against the order dated 14.06.2017, passed by the learned Workmen Compensation Commissioner-I, Chennai, in I.A.No.66 of 2016 in W.C.No.63 of 2015, thereby allowing the petition to implead the petitioner as second respondent in the claim petition.

2. The respondents 1 to 4 filed claim petition under the Workmen Compensation Act as against the fifth respondent herein. The case of the respondents 1 to 4 herein is that on 29.10.2014, as per the instruction of the fifth respondent herein, the husband of the first respondent went to fix chimney in the second floor of the house at No.2B, 3rd Cross Street, A113/115, Extension Road, A Block, Anna Nagar, Chennai. When he was fixing the chimney, he fell down from the second floor due to which, he was sustained grievous injury and died. A complaint was lodged in pursuant to the said occurrence and FIR was registered in Crime No.2321 of 2014 for the offence under Section 304(A) of IPC on the file of the Inspector of Police, K4 Anna Nagar Police Station, Chennai and it is pending for investigation.

3. While pending the claim petition, the fifth respondent filed counter stating that the chimney was fixed in the house owned by the petitioner herein. While fixing the chimney the deceased was fell down and died and therefore, he is the necessary party. Because of the counter filed by the fifth respondent, the respondents 1 to 4 filed petition to impleade the petitioner as one of the party to the claim petition.

4. The learned counsel appearing the petitioner would submit that admittedly the deceased was fixing the chimney in the house of the petitioner and he fell down and sustained grievous injuries. Due to the grievous injuries he unfortunately died. The petitioner purchased the chimney and the deceased was engaged by the company in which, the chimney was purchased to install the chimney in his house. Accordingly, the petitioner came to the house and engaged the deceased to fix the chimney. Therefore, there is no master-servant relationship between the petitioner and the deceased. The petitioner is no way liable to pay any compensation and he is an unnecessary party to the claim petition filed by the respondents 1 to 4 herein.

5. Admittedly, the deceased went to the house of the petitioner to fix the chimney as directed by the company in which, the chimney was purchased by the petitioner herein. Therefore, there is no master-servant relationship between the petitioner and the deceased as such, he is not at all liable to pay any compensation for the death of the deceased. Therefore, the order passed by the Court below is perverse and liable to be set aside.

6. In view of the above discussion, the order dated 14.06.2017, passed by the learned Workmen Compensation Commissioner-I, Chennai, in I.A.No.66 of 2016 in W.C.No.63 of 2015, is hereby set aside. However, the respondents 1 to 4 are at liberty to examine the petitioner as one of their witnesses in the workmen claim petition. Since the claim petition is of the year 2015, the learned Workmen Compensation Commissioner-I, Chennai, is directed to dispose the claim petition within a period of three months from the date of receipt of a copy of this Order.

7. With the above directions , this Civil Revision Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

31.03.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts

To

1. The Workmen Compensation Commissioner-I,
Chennai.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

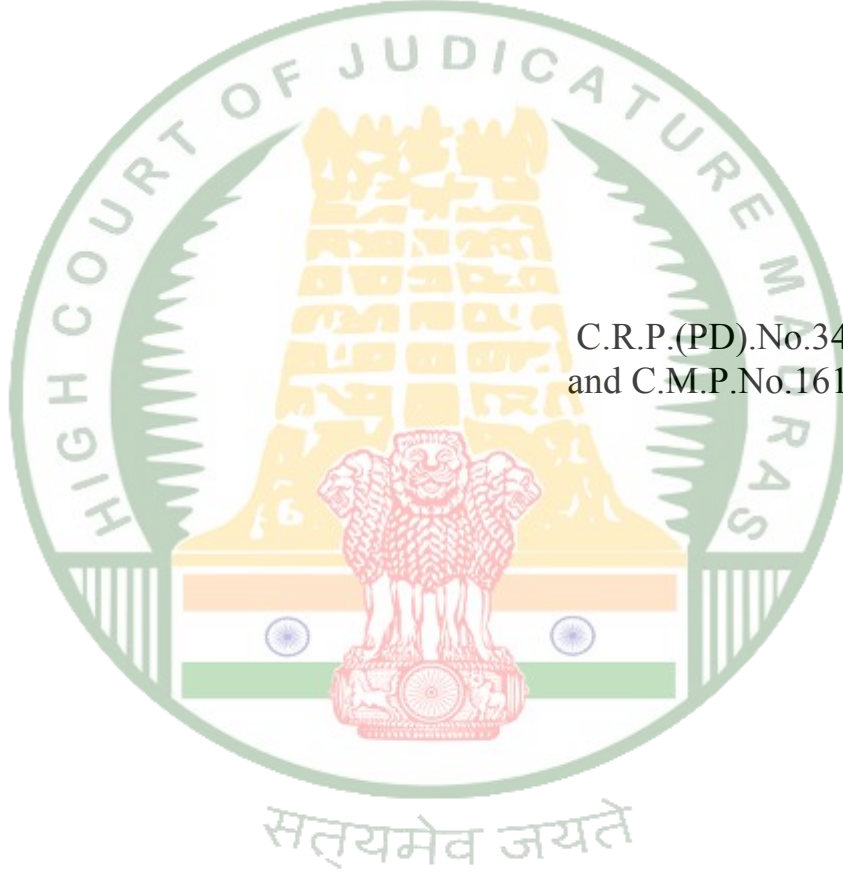


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G.K.ILANTHIRAIYAN, J.

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