



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A(MD)No.1330 of 2009

and

M.P(MD)No.1 of 2009

and

M.P(MD)No.1 of 2012

WEB COPY

P.Soundarapandian
Proprietor,
Ammikkulavi Estate,
Periyur,
Kodaikanal Taluk,
Dindigul District.

... Appellant / 1st Respondent

Vs.

1.T.Palanichamy
2.M.Kasthuri,

... Respondents 1 and 2 /
Claimants

3.The Superintending Engineer,
Tamilnadu Electricity Board,
Dindigul Distribution Circle,
Meenatchinaickanpatti,
Dindigul.

4.The Chairman,
Tamilnadu Electricity Board,
N.P.K.R.R Maaligai, 8th Floor,
Mount Road,
Chennai.

... Respondents 3 & 4 /
Respondents 2 and 3

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, to set aside the award dated 31.07.2009 made in W.C.No.186 of 2006, passed by the learned Commissioner for Workmen Compensation (Deputy Commissioner of Labour), Dindigul and allow the present Civil Miscellaneous Appeal.

For Appellant : Mr.M.R.Sreenivasan

For Respondents : Mr.R.Sundar
(R1 & R2)

For Respondents : Ms.M.Rajeswari
(R3 & R4) For Mr.S.M.S.Johny Basha



JUDGMENT

The Civil Miscellaneous Appeal is filed challenging the award passed in W.C.No.186 of 2006,, dated 31.07.2019, by the Commissioner for Workmen Compensation (Deputy Commissioner of Labour), Dindigul.

2. The facts giving rise to the present appeal are that on 01.02.2005, when the deceased Rajammal @ Lakshmi, who was the employee of the appellant Coffee Estate in Peraiyur, was taking coffee seeds from the estate, she got in touch with the live electric wire, as a result of which, she was electrocuted and died.

3. The respondents 1 and 2, who are son and daughter of the deceased, filed a claim petition, in W.C.No.186 of 2006, before the learned Commissioner for Workmen Compensation (Deputy Commissioner of Labour), Dindigul, claiming a sum of Rs.10,00,000/-, as compensation, for the death of their mother.

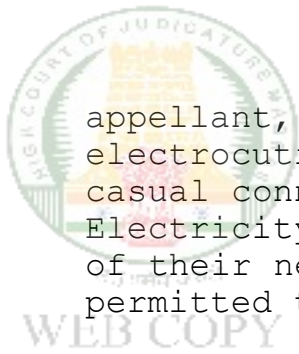
4. Resisting the claim petition, the appellant, who is the proprietor of Ammikkulavi Estate, Periyur, where the deceased was working, filed a counter affidavit stating that the deceased was employed as a daily wager and there was no relationship of employer-employee and while returning home, the deceased got touched the live electric wire and due to electrocution, she died and therefore, is not liable to pay any compensation.

5. The respondents 3 and 4 filed a counter affidavit stating that due to carelessness, the deceased touched the live wire, which got damaged and lying on the road, as a result of which, she died due to electrocution and, if the first respondent informed about the same, the Board ought to have rectified the same and the accident may be prevented. Therefore, the respondents 3 and 4 are not liable to pay any compensation for the death of the deceased.

6. The Commissioner for Workmen Compensation (Deputy Commissioner of Labour), Dindigul, upon considering the oral and documentary evidence has awarded a sum of Rs.1,03,707/-, as compensation and directed the 1st respondent / employer to pay the compensation within a period of 30 days from the date of receipt of a copy of the order, failing which, directed to pay the amount with interest at the rate of 12% p.a., from the date of accident till the date of deposit.

7. Aggrieved over the same, the appellant / 1st respondent-employer preferred the present Civil Miscellaneous Appeal.

8. The learned counsel appearing for the appellant would submit that the Commissioner for Workmen Compensation (Deputy Commissioner of Labour), Dindigul, even though there is employee-employer relationship between the deceased employee and the



appellant, the deceased, while going to her residence, died due to electrocution. He would further submit that even though there is casual connection on account of theory of notional extension, as the Electricity Board is responsible for the cause of death on account of their negligence, the dependants of the deceased employee must be permitted to claim compensation from the Electricity Board.

9. The learned counsel appearing for the Electricity Board would contend that it is the fault of the deceased, who touched the live wire and that there is no claim made against the Electricity Board by any one much less the legal heirs / dependents and that, as there is no employer employee relationship exists between the Electricity Board and the deceased, no amount need to be paid much less compensated to the employer, who is an appellant herein.

10. The learned counsel appearing for the claimants / dependants would contend that while the employee was returning home from the place of work, till he reaches the residence, the employer employee relationship continues and that on account of the electrocution, the son of the claimants died and hence, they are entitled to claim compensation not only from the employer under the Workmen Compensation Act, but also from the Electricity Board for the death as there is a tortious liability.

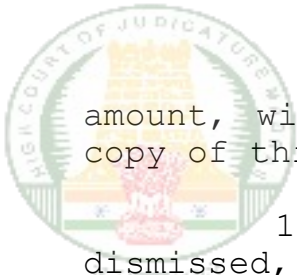
11. I have heard the learned counsel appearing on either side and perused the materials on record.

12. As the employee died in the course and out of employment on account of electrocution, which is finding of fact and that no question of law involved to entertain this appeal as the Authority viz., the Commissioner for Workmen Compensation (Deputy Commissioner of Labour), Dindigul, has rightly determined the compensation payable by the employer and the said amount had already been deposited before the authority concerned. This Court is not inclined to interfere with the order of the authority concerned.

13. With regard to the contention that the Electricity Board will have to bear at least 50% of the amount, this Court is not inclined to render any findings and it is open to the employer to agitate before the appropriate forum and in case, he is successful, it is open to him to get the amount from the Electricity Board.

14. It is needless to mention that in case, the legal heirs / dependants of the deceased employee claim any compensation under tortious liability from the Electricity Board, the amount of compensation received from the employer will have to be returned to the employer, as they cannot have both the benefits at the same time.

15. After conducting the dependant enquiry, as possible, the Authority is expected to disburse the



amount, within a period of 90 days from the date of receipt of a copy of this order.

16. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the Award, dated 31.07.2009, in W.C.No.186 of 2006, passed by the learned Commissioner for Workmen Compensation (Deputy Commissioner of Labour), Dindigul. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MPK

To

1.The Commissioner for Workmen Compensation
(Deputy Commissioner of Labour),
Dindigul

2.The Superintending Engineer,
Tamilnadu Electricity Board,
Dindigul Distribution Circle,
Meenatchinaickanpatti,
Dindigul.

3.The Chairman,
Tamilnadu Electricity Board,
N.P.K.R.R Maaligai, 8th Floor,
Mount Road,
Chennai.

4.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R. NANDAKUMAR, Advocate (SR-36643[F] dated 30/11/2021)

C.M.A(MD)No.1330 of 2009
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