



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A. (MD) No.66 of 2010

WEB COPY

Shanmugam

... Petitioner/ Appellant

-vs-

S.T.P.Parthiban

... Respondent/ Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 30 of the Workmen's Compensation Act, to set aside the order dated 23.11.2007 in W.C.No.47 of 2006, on the file of the Deputy Commissioner of Labour, Tirunelveli.

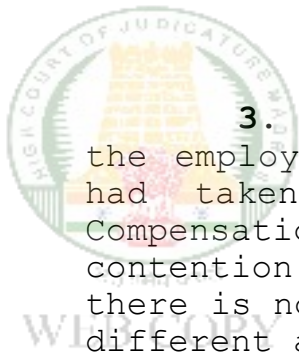
For Appellant : No appearance

For Respondent : No appearance

J U D G M E N T

The present civil miscellaneous appeal has been filed by the claimant contending that the Authority under the Workmen's Compensation Act, 1923, has erroneously rejected the claim of compensation in W.C.No.47 of 2006 on 23.11.2007 holding that there was no employer - employee relationship between him and the respondent herein.

2. According to the pleadings of the claimant, he was employed under the respondent for four years and was drawing a sum of Rs.76/- per day. It was stated on 11.07.2002, around 08.00 a.m., he had a fall from the tree, by which his spinal cord got injured, which affected the kidney and immediately, he was taken to the Government Hospital, Kottayam, wherein scan was taken and he he was admitted as inpatient in the Hospital. The Doctor, who gave treatment to the claimant, found that there was a fracture in the backbone and that since the claimant's health got deteriorated, he was shifted to Madurai Meenakshi Mission Hospital on 13.08.2002, wherein a surgery was conducted and plate was inserted. He would further submit that the Union representatives negotiated and the employer paid a sum of Rs.35,000/- and obtained signature for Rs.65,000/-; that the Doctor, who gave treatment to the claimant, assessed the disability at 80% and that he is entitled to compensation under the Workmen's Compensation Act, 1923.



3. The respondent contended that the claimant was not at all the employee under him and no accident as alleged by the claimant had taken place. He further submitted that the Workmen's Compensation Act will not be applicable to the claimant and the contention that sum of Rs.76/- was paid per day is incorrect and there is no need to pay a portion of amount and obtain signature for different amount and hence, the claim is got to be rejected.

4. On the side of the claimant, three witnesses were examined and four documents were marked and on the side of the respondent, one witness was examined and four documents, namely, Attendance Register for the period from June, 2002 to March, 2003; Salary Register for the period from June, 2000 to March, 2001; Salary Slips for the period from June, 2002 to March, 2003 and Attendance Register for the period from June, 2000 to March, 2001 were marked as Exs.R1 to R4 respectively.

5. The Authority, after taking note of the fact that there is no evidence to witness the accident and there is no proof with regard to the employment under the respondent, disbelieved the factum of accident and rejected the claim of the accident. The claimant has not able to dislodge the documentary evidence extracted supra and the Authority has rightly disbelieved the case of the claimant.

6. Since the Authority has rendered a finding of fact and held that there was no employer - employee relationship, the question of fact cannot be agitated again. In such circumstances, this Court is of the view that the appeal preferred by the claimant is devoid of merits and liable to be rejected.

7. In the result, the civil miscellaneous appeal is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the Judgment may be utilized for official purposes, but, ensuring that the copy of the Judgment that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To:

1.The Deputy Commissioner of Labour,
Tirunelveli.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1 CC to M/s.T.SELVAKUMARAN, Advocate (SR-39814[F] dated 21/12/2021
)

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RD(6.01.2022) 3P 5C