



C.M.A(MD)No.305 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 27.09.2022

Pronounced On : 23.11.2022

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.305 of 2022

and

C.M.P.(MD)No.6984 of 2022

- 1.The Junior Engineer,
Rural/East,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Theni District.
- 2.The Assistant Executive Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Theni District.
- 3.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Theni District.
- 4.The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,
10th Floor, NPKRR Maligai,
Anna Salai, Chennai. : Appellants /Respondents

Vs.

- 1.Manjula
- 2.Murugan . : Respondents/ Petitioners



C.M.A(MD)No.305 of 2022

PRAYER:- Civil Miscellaneous Appeal filed under Section 30 of Employees Compensation Act, 1923, against the order of the Deputy Commissioner of Labour, Dindigul in E.C.No.54 of 2019, dated 20.09.2021.

For Appellants : Mr.B.Ramanathan

For Respondents : Mr.N.Sudhagar Nagaraj

J U D G M E N T

The Civil Miscellaneous Appeal is directed against the order made in E.C.No.54 of 2019, dated 20.09.2021, on the file of the Deputy Commissioner of Labour, Dindigul.

2.The appellants/Officials of TANGEDCO, who was made liable to pay compensation of Rs.7,91,412/- to the claimants for the death of one Vignesh, who died consequent to an accident occurred on 04.05.2018, challenged the liability mulcted on them.

3.The case of the claimants is that the deceased Vignesh was working as a contract labour in the Tamil Nadu Electricity Board; that on



C.M.A(MD)No.305 of 2022

04.05.2018 at about 12 noon, after receiving a complaint from one Periyadoss, Balamurugan, Field Assistant in TNEB, along with the deceased had attended the work; that while the deceased was working in the electrical post, due to the breaking of wooden log, he fell down and sustained head injury and other injuries; that immediately he was taken to K.Vilakku Government Hospital and after first aid, he was taken to Aristo Hospital, Madurai and thereafter, to Government Rajaji Hospital, Madurai, that despite treatment, he succumbed to the injuries on 07.05.2018 at 00.30 hours; that FIR came to be registered in Crime No. 247 of 2018; that the deceased Vignesh was aged 18 years at the time of accident and that since the accident was occurred when the deceased was in the course of employment, the claimants are entitled to get compensation.

4.The defence of the appellants is that the deceased had voluntarily attended the electrical work and sustained injuries; that he was not working in TANGEDCO at any point of time; that the claimants' contention that the deceased was a contract labour is not correct and that therefore, the Electricity Board is not liable for the claim.



C.M.A(MD)No.305 of 2022

WEB COPY

5. During enquiry, the first claimant has examined herself as P.W.1 and exhibited 10 documents as Ex.P.1 to Ex.P.10. The respondents/appellants have examined their Junior Engineer Thiru.Nagaraj, as R.W.1 and exhibited one document as Ex.R.1.

6. The Commissioner of Workmen Compensation, upon considering the evidence both oral and documentary, has passed the impugned order, dated 20.09.2021, holding that the deceased was working as a contract labour under the TANGEDCO and that the claimants are entitled to get compensation of Rs.7,35,622/- with interest and costs. Aggrieved by the said award, the Officials of TANGEDCO has come forward with the present appeal.

7. The points for consideration are :

(i) Whether the Deputy Commissioner of Labour erred in rendering a finding that there existed employer-employee relationship between the appellants and the deceased, in the absence of any iota of evidence to substantiate the same?

(ii) Whether the compensation arrived at by the Deputy Commissioner is proper and is in accordance with law ?



C.M.A(MD)No.305 of 2022

WEB COPY

8. Admittedly, the deceased Vignesh is the son of the respondents/claimants. The claimants' specific contention is that their son Vignesh was working as a contract labour in Tamil Nadu Electricity Board and that he was receiving monthly salary of Rs.10,000/-. But, the defence of the appellants/respondents is that the deceased Vignesh is not their worker; that the deceased was not working as a contract labour and that therefore, there existed no employer-employee relationship between the appellants and the deceased.

9. The claimants have examined the first claimant as P.W.1 and in chief examination, she would reiterate the contention raised in the claim petition that her son was a contract labour in the Tamil Nadu Electricity Board. In cross examination, she would say that her son had approached the Assistant Engineer demanding work; that they have produced two identity cards, issued by the Employees Union and that she would deny the suggestion that her son was not a contract worker and that he had invited the accident by himself and that therefore, the appellants are not liable for the claim.



C.M.A(MD)No.305 of 2022

10. The appellants have examined the Junior Engineer Nagaraj as R.W.1 and he would say that the deceased was not connected with their department; that he was not a contract labour as alleged by them and that therefore, they are not liable for the claim.

11.R.W.1 has produced the copy of Job Allocation Register for the date 04.05.2018 under Ex.R.1. During his cross examination, he would admit that the Balamurugan was arrayed as 8th person in the said list; that the said Balamurugan was belonging to their unit; that the complaint was lodged by the said Balamurugan and that the deceased Vignesh had not worked with Balamurugan. R.W.1 would also say that the name of the Balamurugan finds place in Ex.R.1/Job allocation register, but the name of the deceased does not find place in the list.

12.The learned counsel the claimants would submit that R.W.1 would admit that the names of their employees alone would be shown in the log book and other records and that the deceased had accompanied the field assistant Balamurugan to set right the defects pointed out by the consumers. Though R.W.1 was cross examined, nothing was elicited by the claimants in their favour.



C.M.A(MD)No.305 of 2022

13.It is pertinent to note that the claimants have produced Ex.P.5 (2 identity Cards) allegedly issued by the Tamil Nadu Electricity Labours Union to the deceased Vignesh and the above two cards were allegedly issued by the General Secretary of the said federation, on receiving Rs.200/-.

14.The learned counsel for the respondents would contend that the Tamil Nadu Electricity Labours Union would issue membership cards only to the workers of TANGEDCO and not to third parties.

15.As rightly contended by the learned counsel for the appellants, the claimants have not produced any iota of evidence to show that the deceased was a worker in TANGEDCO or he was a contract labour in TANGEDCO; that they have produced two membership cards and that they have not chosen to examine the office bearers or the staffs attached to the Tamil Nadu Electricity Labours Union. The claimants have not even taken any steps to summon the records from Tamil Nadu Electricity Labours Union to verify the particulars shown in Ex.R.5 membership cards.



C.M.A(MD)No.305 of 2022

16.As rightly contended by the learned counsel for the appellants, the claimants have not furnished any particulars as to the places in which, the deceased was working earlier and the quantum of salary. Except Ex.R.5, they have not produced any other evidence to prove their stand.

17.As rightly contended by the learned counsel for the appellants, there is absolutely no evidence to show that there existed employer-employee relationship between the appellants and the deceased. But, the Tribunal by simply relying on recital in the FIR, which was given by the said Balamurugan and the membership cards allegedly issued by the Tamil Nadu Electricity Labours Union, has come to the decision that there existed relationship of employer-employee and that the deceased Vignesh while working as a contract labour had died on 04.05.2018 in the accident occurred in the course of the employment.

18. Considering the above, this Court has no hesitation to hold that the claimants have miserably failed to prove that the deceased Vignesh was working as contract labour under the appellants and that there existed relationship of employer-employee between them. Consequently, the first substantial question of law is answered in favour of the appellants.



C.M.A(MD)No.305 of 2022

19.Since this Court has already decided that there was no relationship of employer-employee between the appellants and the deceased, the claimants are not entitled to get any compensation. Hence, this Court concludes that the appeal is liable to be allowed by setting aside the order, dated 20.09.2021 passed in E.C.No.54 of 2019 on the file of the Deputy Commissioner of Labour, Dindigul. Considering the other facts and circumstances of the case, this Court further decides that the parties are to be directed to bear their own costs.

20.In the result, the Civil Miscellaneous Appeal is allowed and the order, dated 20.09.2021 passed in E.C.No.54 of 2019 on the file of the Deputy Commissioner of Labour, Dindigul, is set aside. The appellants are permitted to withdraw the deposited amount before the Tribunal with accrued interest, on due application. The parties are directed to bear their own costs. Consequently, connected Miscellaneous Petition is closed.

23.11.2022

Index : Yes : No
Internet : Yes : No
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C.M.A(MD)No.305 of 2022

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- 4.The Chairman,
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Anna Salai, Chennai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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.K.MURALI SHANKAR,J.

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