



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.2484 & 3016 of 2019 and 113 of 2020

Subramani .. Appellant in CMA. No.2484 of 2019

Aravindan ... Appellant in CMA. No.3016 of 2019

1. Subramanian

2. Radha

... Appellant in CMA. No.113 of 2020

Vs.

1. K.Ramesh

2. Nagaraj

3. New India Assurance Co. Ltd.,

Motor Third Party Complex,

No.232, Bombay Mutual Building,

6th Floor, NSC Bose Road,

Chennai-1.

.. Respondents in all the cases

Common Prayer: Civil Miscellaneous Appeals filed under Section 30 of the Employees compensation Act, against the judgment and decree dated 02.08.2018 made in MCOP.No.328, 327 & 329 of 2016 on the file of the Joint Commissioner of Labour-II, Chennai.

For Appellants : Ms.A.Subadhra

For Respondents : Mr.M.R.Jothimanian R1

Mr.K.Vinod R3

R2 – No appearance



COMMON JUDGMENT

WEB COPY

Since the issues involved in all these cases are one and the same and hence, the same are disposed of by way of this common order.

2. The appeal have been filed by the claimants challenging the judgment and decree dated 02.08.2018 made in MCOP.No.328, 327 & 329 of 2016 on the file of the Joint Commissioner of Labour-II, Chennai.

3. It is the case of the respective claimants that on 03.08.2016 at about 10.30 am when the claimants and deceased person were working as a coolie under the respondents 1 & 2 at Electricity Sub Station, Kadapperi, west tambaram, at that time, while digging the ground with the help of the crowbar, touched the high voltage cable, due to which, the accident occurred and the claimants and the deceased sustained injuries and admitted in the hospital. After failure of treatment, the deceased was died, in the hospital on 15.08.2016. Thereafter, the claimants and the legal heirs of the deceased filed claim petitions before the workmen's compensation Court and after perused the evidence and witnesses, the Labour Court passed



award, which is very meagre. Challenging the said awards, the appellants have filed appeals seeking enhancement of compensation.

4. The learned counsel for the appellant submitted that the Commissioner has failed to consider the evidence of the appellants that the injured and the deceased were working as Coolie under the first respondent herein and earning Rs.800/- per day as salary. But the Commissioner has fixed the income very low and awarded compensation which is not correct. Without examining the employer, the Commissioner awarded compensation, which is not sustainable and the same has to be re-visited. Hence, the learned counsel prays that this Court may set aside the award and remand the matter back to the authorities.

5. The learned counsel for the respondents 1 & 3 have not raised any objection.

6. Heard the learned counsel for the appellants and the learned counsel appearing for the respondents and perused the materials available on record.



WEB COPY

7. The facts of the case are not in dispute. The claimants has stated that they were working as Coolie under the respondents 1 & 2 and they have receive a salary for a sum of Rs.800/- per month. According to the claimants, the Commissioner has awarded very meagre compensation for disability and requested that the employer has to examined to prove the income of the injured claimants and the deceased person.

8. Considering the facts and circumstances of the case and consent view expressed by the both the parties, this Court is inclined to set aside the award passed by the Commissioner and remand the matters back to the authority for fresh consideration. However, liberty is granted to the appellants to work their remedy in the manner known to law. The learned Commissioner shall conclude the proceedings after giving opportunity to either side, on merits, within a period of three months from the date of receipt of a copy of this order.



9. With the above directions, the appeals are allowed. No costs.

Consequently, connected miscellaneous petition are closed.

27.11.2023

Index : Yes

Speaking Order : Yes

rli

To

The Joint Commissioner of Labour-II, Chennai.



WEB COPY



6

M.DHANDAPANI,J.

Rli

C.M.A.Nos.2484 & 3016 of 2019 and 113 of 2020

27.11.2023