



WEB COPY



W.P.No.17234 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2023

CORAM :

THE HONOURABLE MRS.JUSTICE V. BHAVANI SUBBAROYAN

Writ Petition No. 17234 of 2023

and

W.M.P. No. 16400 of 2023

1. Vino
2. Theerthagiri @ Prince ... Petitioners

Versus

1. Joint Commissioner of Labour,
Salem.
2. The Deputy Inspector of Labour,
Krishnagiri.
3. G. Umavathy ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the concerned records from the first respondent, quash the order of the first respondent dated 16.02.2022 bearing Na.Ka.No./B2/5472/18 as illegal, arbitrary and contrary to law and consequently direct the first respondent to pay Rs.7,81,070/- being the amount deposited to the credit of W.C.No.912 of 2014 along with the accrued interest to the petitioners.

For Petitioner : Mr. Balan Haridas

For Respondents : Mr.R.P.Muruganraja,
Government Advocate (for R1 & R2)

Service awaited (for R3)



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ORDER

WEB COPY This Writ Petition has been filed to quash the order of the first respondent dated 16.02.2022 bearing Na.Ka.No./B2/5472/18 as illegal, arbitrary and contrary to law and consequently direct the first respondent to pay Rs.7,81,070/- being the amount deposited to the credit of W.C.No.912 of 2014 along with the accrued interest to the petitioners.

2. The facts of the case is that one Prakasam was working under the third respondent as a lorry driver and during the course of his employment on 08.10.2014 he died. Due to the sudden demise of the sole breadwinner, the family suppressed penurious circumstances. Thereafter, the petitioners herein, who are the legal heirs of the deceased, filed W.C.No.912 of 2014 claiming compensation from the third and fourth respondent under the workmen's compensation Act. The Tribunal on considering oral and documentary evidence arrived the compensation at Rs.5,84,800/- and directed the fourth respondent to pay the same to the petitioners. The fourth respondent inturn has deposited the said amount with the first respondent who is the appropriate authority to disburse the amount. When the deposited amount was sought to be withdrawn, to the shock and surprise to the petitioners, the first respondent has passed the impugned order stating that there was no dependent for the



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deceased as contemplated under Section 2(d) of the Workmen Compensation Act, 1923 (hereinafter referred to as 'the Act' for short) to disburse the compensation amount. Hence this petition.

3. Heard the learned counsel appearing for the petitioners and the learned Government Advocate appearing for the respondents 1 and 2.

4. It is rather unfortunate that the petitioners, who succeeded in getting compensation for the death of the deceased Prakasam were made to run from pillar to post to withdraw it. The first respondent, while refusing to disburse the compensation amount to the petitioners, did not take note of the fact that it was the petitioners who have filed the claim petition seeking compensation for the death of the deceased Prakasam as his legal heirs. Before the Tribunal in W.C. No. 912 of 2014, the respondents therein did not deny the relationship of the petitioners and the deceased. Even otherwise, the petitioners have enclosed the legal heir certificate dated 08.10.2014 issued by the Tahsildar, Aarur stating that the first petitioner is the daughter and the second petitioner is the son of the deceased Prakasam. In fact, the legal heir certificate was marked as document No. 8 before the Tribunal by the petitioners in WC No. 912 of 2014. Further, the petitioners have also marked death certificate, family card and the



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driving licence of the deceased Prakasam to prove their claim. When such documentary evidence were made available to prove the relationship between the petitioners and the deceased, the first respondent, without any application of mind, has refused to disburse the compensation amount to the petitioners. For refusing to permit the petitioners to withdraw the compensation amount, the first respondent simply relied on a report said to have been submitted by the second respondent. It is not known as to what was the enquiry conducted by the second respondent or whether such enquiry was conducted in the presence of the petitioners. The so-called enquiry report has not been served on the petitioners. Even the petitioners were not heard before passing the impugned order. Therefore, this Court is of the view that the refusal on the part of the first respondent to permit the petitioners to withdraw the compensation amount cannot be sustained under law.

5. In the order dated 16.02.2022 which is impugned in this writ petition, the first respondent relied on Section 2 (d) of the Act and concluded that the petitioners does not fall within the scope and ambit of the said provision of law. To arrive at a better conclusion, it is necessary to analyse Section 2 (d) of the Act and the same is extracted hereunder:

d) “ Dependant means any of the following relatives of the deceased, namely:-

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- (i) a widow, a minor legitimate son and unmarried legitimate daughter, or a widowed mother and
- (ii) if wholly dependent on the earnings of the workman at the time of his death, a son or a daughter who has attained the age of 18 years and who is infirm;
- (iii) if wholly or in part dependent on the earnings of the workman at the time of his death,
 - (a) a widower,
 - (b) a parent other than a widowed mother,
 - (c) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate if married and a minor or if widows and a minor,
 - (d) a minor brother or a unmarried sister or a widowed sister if a minor,
 - (e) a widows daughter-in-law,
 - (f) a minor child of a pre-deceased son,
 - (g) a minor child of a pre-deceased daughter where no parent of the child is alive, or
 - (h) a paternal grandparent of no parent of the workman is alive:

6. In the present case, the petitioners falls within the definition of Section 2 (d) (1) of the Act. The petitioners are the children of the deceased Prakasam and therefore it is futile on the part of the first respondent to conclude that the petitioners cannot be termed as dependant of the deceased. The accident had taken place in the year 2014 and during that year, the petitioners are aged 29 and 28 respectively. While so, it cannot be gainsaid that the petitioners are not dependants of the deceased Prakasam.



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7. In the light of the above discussion, the order dated 16.02.2022 of the first respondent, which is impugned in this writ petition, is set aside. The writ petition is allowed. However, the first respondent is directed to disburse the compensation amount deposited to the credit of W.C. No. 912 of 2014 to the petitioners, with accrued interest, within a period of eight weeks from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index : Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

1. The Joint Commissioner of Labour,
Salem.
2. The Deputy Inspector of Labour,
Krishnagiri.



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V.BHAVANI SUBBAROYAN, J.

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