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WP.No.4938 of 2017

In the High Court of Judicature at Madras

Dated : 07.8.2023

Coram :

The Honourable Mr.Justice M.DHANDAPANI

Writ Petition No.4938 of 2017
& WMP.Nos.5168 & 5169 of 2017

1.M.Muthalagan
2.Tmt.Thamarai Selvi

...Petitioners

Vs

1.A.Selvaraj
2.The Commissioner for Workmen
Compensation/Deputy Commissioner
of Labour-1, Teynampet, Chennai.

3.The District Collector, Chennai
District, Chennai.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the entire records pursuant to the order dated 20.9.2016 issued by the second respondent herein in I.A.Nos.63/2016 and 64/2016 in W.C.No.162/ 2012 and quash the same.

For Petitioners : Mr.S.Ilavazhuthi for
M/s.S.Sathya Narayanan
For R1 : No appearance
For R2 & R3 : Mr.M.S.Prem Kumar, GA

ORDER



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This is a petition filed by the petitioners seeking to quash the order dated 20.9.2016 made in I.A.Nos.63/2016 and 64/2016 in W.C. No.162/2012 on the file of the second respondent.

2. The facts leading to filing of this case are as follows :

(i) The first respondent filed W.C.No.162 of 2012 on the file of the second respondent under Section 10 of the Workmen's Compensation Act, 1923 as against the petitioners seeking compensation on the ground that on 02.1.2011, during the course of employment, he fell down from their house property thereby sustaining fractures in spinal cord apart from sustaining multiple injuries all over the body. He was taking treatment as an inpatient in two private hospitals respectively for the periods from 04.1.2011 to 10.1.2011 and 25.3.2011 to 01.4.2011. At the instance of the police officials, the petitioners also paid a sum of Rs.15,000/- to the first respondent towards medical expenses.

(ii) Thereafter, after a lapse of eight months, the first respondent filed the application before the second respondent on the ground he suffered



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injuries during the course of doing the painting work in the house of the petitioners, as they failed to provide him safety measures. In that, the petitioners entered appearance and filed their counter. However, they did not appear for the hearings continuously and therefore, they were set ex parte. On 14.8.2014, the said application filed before the second respondent was allowed directing them to deposit a sum of Rs.4,45,919/- towards compensation by way of demand draft in favour of the second respondent.

(iii) Thereafter, the petitioners filed I.A.No.102 of 2014 to set aside the ex parte order dated 14.8.2014. However, it was dismissed by order dated 13.4.2015 on the ground that the petitioners did not appear continuously for hearings. Subsequently, the petitioners filed I.A.Nos.63 and 64 of 2016 respectively seeking to (i) restore I.A. No.102 of 2014; and (ii) condone the delay of 410 days in restoring I.A.No.102 of 2014. These two interlocutory applications were dismissed by the common impugned order confirming the order dated 14.8.2014 on the ground that the petitioners adopted delaying tactics. Challenging the same, the petitioners are before this Court.



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3. In pursuance of the common impugned order, the petitioners were served with a demand notice dated 20.12.2016 issued by the Tahsildar, Mylapore Taluk, Chennai-5 directing them to pay a sum of Rs.4,45,919/- together with interest at 12% in one lumpsum by way of demand draft in favour of the second respondent.

4. When the matter came up for admission on 16.3.2017, while ordering notice of motion, this Court granted an order of interim stay.

5. The learned counsel for the petitioners submit that the first respondent was engaged as painter in the petitioners house, while doing the said work, he has fallen down from the premises and sustained injuries leading to fracture in spinal cord. However, the Labour Court arrived at a conclusion as if the first respondent suffered permanent disability of 70% based on the disability certificate issued by the Doctor, who assessed the disability of 75% and awarded a sum of Rs.4,45,919/- as compensation payable to the first respondent which is highly excessive. Hence, he prayed



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to allow this writ petition.

6. Though the paper publication was effected on the first respondent and his name printed in the cause list, none appears for him nor he is present before this Court today. Considering the pendency of this writ petition, this Court is inclined to dispose of this writ petition based on the available records.

7. Heard the learned counsel appearing on behalf of the petitioners and the learned Government Advocate appearing for respondents 2 and 3.

8. Admittedly, the first respondent was engaged as a painter in the petitioners house and while painting the petitioners house, the first respondent has fallen down from the petitioners house leading to fracture in the spinal cord. However, the issue arises in present writ petition is whether the multiplier method adopted by the second respondent is correct or not. There is no doubt that the Doctor who treated the first respondent was examined as WW2, assessed the disability of the first respondent as 75%,



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however, the Labour Court, based on the certificate given by the Doctor, assessed the disability of the first respondent as 70%. Though the Labour Court has taken into consideration the disability at 70% and adopted multiplier method, however the same was not properly discussed in the impugned Award. Hence, this Court is inclined to fix a compensation of Rs.1,25,000/- in favour of the first respondent and the award passed by the second respondent in I.A.Nos.63 and 64 of 2016 in W.C.No.162 of 2012 dated 20.09.2016 is modified as follows:

(i) The petitioners are directed to deposit a sum of Rs.1,25,000/- to the credit of I.A.Nos.63 and 64 of 2016 in W.C.No.162 of 2012 on the file of second respondent within a period of eight (8) weeks from the date of receipt of a copy of this order, failing which, the petitioners are directed to pay interest at the rate of 6% from the date of expiry of eight weeks till the date of depositing the aforesaid amount. Thereafter, the first respondent is permitted to withdraw the aforesaid amount.



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9. With the above directions and observation, this writ petition is disposed of. Consequently, connected miscellaneous petitions are closed.

There shall be no order as to costs.

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Index : Yes (or) No

Neutral Citation : Yes (or) No

Speaking Order : Yes (or) No

To

1.The Commissioner for Workmen
Compensation/Deputy Commissioner
of Labour-1, Teynampet, Chennai.

2.The District Collector, Chennai
District, Chennai.



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