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W.A.No.3423/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 08-12-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A.No.3423 of 2023

R.Sankaralingam

...

Appellant

-VS-

1.Mrs.Francis Mary

2.The District Collector,
Kancheepuram District.

3.The Workmen Compensation Commissioner No.2,
(The Joint Commissioner of Labour No.2)
Chennai – 6.

...

Respondents

Appeal under Clause 15 of the Letters Patent against the order, dated
28.06.2023, passed in W.P.No.10922 of 2023.

For Appellant : Mrs.S.Suseela Devi

For Respondent 1 : Mr.G.Magesh Kumar

For Respondent 2 : Mr.A.Selvendran,
Spl.Govt.Pleader.



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JUDGMENT
(By *S.Vaidyanathan,J.*)

This appeal has been filed challenging the order of the learned single Judge, dated 28.06.2023, passed in W.P.No.10922 of 2023.

2. Writ Petition was filed by the writ petitioner, first respondent herein, praying for a writ of mandamus, directing first respondent therein, namely, the District Collector, Kancheepuram, to take action forthwith under the Revenue Recovery Act, 1890, in order to implement the order of second respondent therein, namely, the Authority under the Workmen's Compensation Act, dated 02.04.2019, in W.C.No.14 of 2018, by recovering the amount of Rs.5,61,520/- with interest, from third respondent therein, namely, the appellant herein, in view of the communication, dated 19.01.2023 in Aa3/0095/2022, issued by second respondent therein, namely, the Authority.

3. The learned single Judge allowed the said Writ Petition directing the District Revenue Officer, Chengalpattu, to recover the amount from third respondent, namely, the appellant herein, or or before 31.12.2023. The learned single Judge also held that the employee/husband of the writ petitioner died in an accident on 16.08.2016 out of and in the course of employment.



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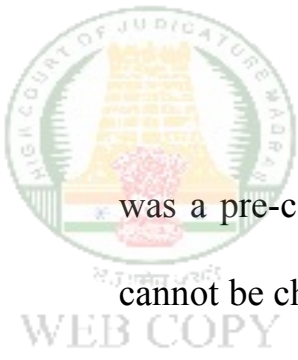
4. Since the compensation was not paid, the dependants of the deceased approached the Authority by filing W.C.No.14 of 2018, wherein the amount mentioned supra was computed.

5. According to the appellant employer, an ex parte order was passed by the Authority and an application in I.A.No.187 of 2019 to set aside the said ex parte order was filed, which was rejected during the covid-19 time by the Authority.

6. The Authority sent a communication, dated 17.08.2022, to the employer to pay the compensation amount together with interest at 12% per annum within 15 days. Since the amount was not paid, an order was passed by the Authority for recovering the amount in terms of the Revenue Recovery Act, 1890. It has been stated that during the pendency of the proceedings, a sum of Rs.1,50,000/- was paid on 10.07.2023 and the remaining amount of Rs.4,11,520/- was due.

7. Learned counsel for the appellant would vehemently contend that the deceased was not an employee of the appellant employer, but he was an employee through a contractor, and, that, on the date of the alleged incident, he was not even an employee under the contractor and, hence, no amount needs to be paid.

8. We are not inclined to accept the above contention of the appellant, as, if he had got any grievance, he ought to have preferred an appeal under Section 30-A of the Workmen's Compensation Act, 1923, after depositing the amount determined, which



was a pre-condition. Now that the issue has attained finality, the consequential order cannot be challenged.

9. Learned counsel for first respondent would submit that the dependants of the deceased employee would be entitled to more than Rs.10.00 lakhs as on the date of accident, which was in the year 2016, and, apart from Rs.1,50,000/-, which has been stated by the appellant, no amount is paid or deposited before the Authority.

10. At the time of admission, we asked the learned counsel for the appellant to contact her client as to whether the issue can be given a quietus to, so that the interest portion can be waived and that no reduction in the principal amount is permissible. The learned counsel, after contacting her client, submitted that the appellant employer is willing to pay the balance principal amount within two weeks, for which, learned counsel for the respondent would submit that at least some portion of interest will have to be paid and that the balance amount of Rs.4,11,520/- be rounded off to Rs.5.00 lakhs.

11. Taking note of the submissions of both the parties, we make it clear that a sum of Rs.5.00 lakhs shall be paid by the appellant employer to the respondent employee over and above the amount already paid within a period of one month from the date of receipt of this order. As we find that there is no merit in this case, in case of non-payment of the amount of Rs.5.00 lakhs, referred to supra, within the time stipulated, the appellant will have to pay the entire amount as per the order of the



Authority under the Workmen's Compensation Act together with interest and coercive steps be taken by the Authority to recover the entire amount.

12. Writ Appeal is disposed of as above. No costs. Consequently, the connected C.M.P.No.28072 of 2023 is closed.

Index : Yes/No
Internet : Yes/No
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(S.V.N.,J.) (K.R.S.,J.)
08-12-2023

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To

1.The District Collector,
Kancheepuram District.

2.The Workmen Compensation Commissioner No.2,
(The Joint Commissioner of Labour No.2)
Chennai – 6.



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S.VAIDYANATHAN,J.
AND
K.RAJASEKAR,J.

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