



W.P.No.28509 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28509 of 2017

P.Dhanasekaran

... Petitioner

Vs.

1. The Commissioner for Workmen Compensation - II /
Deputy Commissioner of Labour - II,
Teynampet,
Chennai.
2. Thiru.Gowtham Chand (died)
Owner, Harihanth Granites,
175, T.H.Road, Thiruvotriyur,
Chennai - 600 019.
3. The Tashildar,
Chennai Corporation Building,
High Road, Thiruvotriyur,
Chennai - 600 019.
4. Naveen
S/o. Gowtham Chand
5. Vijayakumar
S/o. Gowtham Chand



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6. Kandha

W/o. Gowtham Chand

7. Varsha

D/o. Gowtham Chand

... Respondents

(Respondents 4 to 7 impleaded vide order dated 14.08.2003 made in W.M.P.No.23923 of 2023 in W.P.No.28509 of 2017 by MDIJ)

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents 1 and 3 to recover the 12% interest amount from the date of accident occurred on 25.02.2010 from the second respondent's Company within a stipulated time frame.

For Petitioner : Mr.G.Mutharasu

For Respondents : Mr.M.S.Prem Kumar
Government Advocate for R1 & R3

ORDER

The Writ Petition has been filed for a direction to the respondents 1 and 3 to recover the 12% interest amount from the date of accident occurred on 25.02.2010 from the second respondent's Company within a stipulated time frame.



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2. The petitioner / workman working in the second respondent

Industry lost his left eyes sight while at work in the year 2010. On a claim made by him in W.C.No.315 of 2010, the first respondent / Commissioner for Workmen Compensation passed an award dated 05.05.2015 awarding a sum of Rs.2,49,191/- with interest at 12% per annum from the date of accident, if the amount was not deposited within 30 days from the date of receipt of a copy of this order. Since the second respondent did not pay the compensation, the petitioner / workman submitted a representation dated 28.12.2015 to the first respondent / Commissioner for Workmen Compensation to initiate revenue recovery proceedings against the second respondent. The first respondent / Commissioner for Workmen Compensation vide proceedings dated 30.03.2021 requested the District Collector, Chennai to initiate revenue recovery proceedings against the second respondent. In the meanwhile, the second respondent's Company became sick and was wound up. Thereafter, the Tahsildar, Thiruvotriyur initiated revenue recovery proceedings and caused a service of the revenue recovery notice dated 18.02.2022 to the second respondent's Company



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which was closed down. Hence, the petitioner has come forward with the present Writ Petition seeking appropriate direction to the respondents 1 and 3 to recover the amount.

3. It is reported that the second respondent is no more. Hence an application to implead the legal heirs of the deceased second respondent has been filed. This Court vide order dated 14.08.2023 in W.M.P.No.23923 of 2023 in W.P.No.28509 of 2017 has impleaded the legal representatives of the second respondent.

4. This Court has earlier dealt similar Writ Petition in W.P.No.531 of 2008 and the learned Judge of this Court by an order dated 04.03.2009 has held as follows:

".....

27.If the above principles are applied to the workmen Compensation award, there can be no difficulty in holding that such a compensation payable to a workman is a statutory benefit payable by the employer. The right to get



workmen compensation, though a statutory right, in deed, emanates from right to life guaranteed under [Article 21](#) of the Constitution of India.

.....

29. Surely, a compensation payable to a workman under the [Workmen Compensation Act](#) does form part of the day to day operation of the company. As I have already stated, as soon as there is an adjudication order passed by the Commissioner for Workmen Compensation, the amount falls due. As reflected in [Section 4\(A\)](#) and various other provisions of the Workmen's [Compensation Act](#), as soon as the amount falls due, the company is liable to pay the same to the workman concerned. Even if an appeal is sought to be made challenging the award, the employer is required statutorily to deposit the entire compensation awarded as a condition precedent. These provisions would go to indicate that as soon as the amount becomes due, though the money is retained by the company without making immediate payment, the money belongs to the workmen.

.....

33.The long arm of the Court under [Article 226](#) of the Constitution of India, if not extended, the armless



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man's life would be further put in perils. As I have already concluded, this is a very appropriate situation where the power under [Article 226](#) of the Constitution of India should be exercised in favour of a poor litigant like the petitioner.

34.In the result, the Writ Petition is allowed. The respondents 1 and 2 are directed to recover the amount as per the Certificate issued by the Commissioner in accordance with the provisions of [Revenue Recovery Act](#) expeditiously, preferably within three months from the date of receipt of a copy of this order."

5. In the light of the facts and circumstances of the present case and the judgment supra, this Court is inclined to dispose of the Writ Petition with a direction to the first respondent to consider the representation of the petitioner dated 28.12.2015 and take steps to recover the amount as per the revenue recovery certificate issued in this regard from the legal heirs of the deceased second respondent within a period of four weeks from the date of receipt of a copy of this order. Registry is directed to communicate a copy of this order to the legal heirs of the second respondent, viz., respondents 4 to 7.



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6. Accordingly, this Writ Petition is disposed of. No costs.

14.08.2023
(2/2)

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

1. The Commissioner for Workmen Compensation - II /
Deputy Commissioner of Labour - II,
Teynampet,
Chennai.
2. The Tashildar,
Chennai Corporation Building,
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M.DHANDAPANI, J.

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