



C.M.A.No.84 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.84 of 2019

and

C.M.P.No.386 of 2019

A.Gnanasekar
S/o.Arunachalam

... Appellant / 1st Respondent

Vs.

1. Malarkodi
W/o.P.G.Mallan @ Mallaipillai ... 1st Respondent / Petitioner
2. M.Rengarajan
S/o.Muniappan
3. S.Muthuvel
S/o.Subramaniam
4. S.Neelakandan
S/o.Subramaniam
5. M/s.National Insurance Company Limited,
City Branch,
No.3, Kavery Complex,
2nd Floor, Door No.1670, Trichy Road,
Ramanathapuram, Coimbatore.



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6. M/s.G.S.V.Construction,
Engineering Contractor,
42, Dr.Munusamy Nagar,
Behind Sungam Chinthamani,
Coimbatore - 45.

... Respondent 2 to 6 / Respondents 2 to 6

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order passed in W.C.No.86 of 2009 dated 03.03.2012 on the file of the Deputy Commissioner of Labour, Workmen Compensation Act, Coimbatore and to set aside the same.

For Appellant : Mr.B.Nedunchezhiyan

For Respondents : Mr.V.Sivakumar for R1
Mr.S.Vadivel for R5
No appearance for R6
R2 to R4 - Not ready notice

J U D G M E N T

Aggrieved by the compensation awarded by the Tribunal in W.C.No.86 of 2009, the appellant / first respondent has come before this Court challenging the same by filing the present civil miscellaneous appeals.



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2. The appellant is the first respondent in W.C.No.86 of 2009. He was under the business of engaging contractual workers for construction and renovation buildings. While so on 11.07.2008, one Manivel / deceased was engaged by the appellant in the renovation work carried out in the building belonging to the respondents 3 and 4. The Insurance Company and the Construction Company were arrayed as respondents 5 and 6 before the Tribunal.

3. The petitioner in W.C.No.86 of 2009 was the mother of the deceased. Due to electric short circuit, the deceased was electrocuted and died on the spot. The mother of the deceased filed W.C.No.86 of 2009 claiming compensation for the death of her son. The Tribunal after considering the evidence both orally and documentary placed before it came to the conclusion that the appellant / first respondent in W.C.No.86 of 2009 and the respondents 3 and 4 were jointly and severally liable to pay the compensation for a sum of Rs.4,50,500/- in all to be deposited to the credit



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of W.C.No.86 of 2009 for the death of the deceased. The appellant / first respondent is before this Court challenging the said award.

4. The learned counsel for the appellant / first respondent submitted that the appellant is the sub-contractor engaged by the sixth respondent construction company and the Tribunal came to the conclusion that he was the principal employer who engaged the deceased worker and thereby, fastening the liability on him along with the other respondents 3 and 4.

5. The learned counsel for the Insurance Company has substantiated his contention that the insurance policy was pertaining to Tiruppur site, whereas the accident occurred in Coimbatore site, for which, there is no insurance policy substantiating on the date of occurrence and therefore, the Insurance Company is not liable to pay the compensation and recover the same from the principal employer.



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6. This Court after going through the submissions made by both sides and the documents placed on record is able to find that the insurance policy was effective from 29.01.2008 to 28.01.2009 and the date of accident as 11.07.2008.

7. It is pertinent to note that the Insurance Company was exonerated by the Tribunal on the ground that there was no insurance subsisting on the date of the accident. That apart, the insurance policy pertained to work site at Tiruppur, whereas the accident occurred in Coimbatore work site for which no insurance policy was produced by the appellant. Citing the said reasons only, the Tribunal has exonerated the Insurance Company from awarding pay and recovery and fixed the liability only on the appellant and the respondents 3 and 4. Hence, this Court is not inclined to interfere with the award passed by the Tribunal.

8. This Court after carefully considered all the materials, it is seen that an amount of Rs.2,67,483/- out of the award amount of Rs.4,50,500/-



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was deposited to the credit of W.C.No.86 of 2009 by the appellant / first respondent. The first respondent / claimant is directed to withdraw the amount lying to the credit of W.C.No.86 of 2009 after filing appropriate application. The appellant / first respondent and the respondents 2 and 3 are jointly and severally directed to pay the balance amount to the credit of W.C.No.86 of 2009 on the file of Deputy Commissioner of Labour, Coimbatore. Thereafter, the first respondent / claimant is at liberty to withdraw the same by filing appropriate application.

9. Accordingly, this Civil Miscellaneous Appeal is dismissed in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

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

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To

1. The Deputy Commissioner of Labour,
Workmen Compensation Act,
Coimbatore
2. The Section Officer,
V.R. Section,
High Court,
Chennai.



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