



CMP(MD) No.10220 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Thursday, the Fifth day of October Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN
CMP(MD) No.10220 of 2023
IN
CMA(MD) No.629 of 2023

V.MURUGARAJ

... Petitioner / Respondent

Vs

1 P.GOPINATH

2 K.K.PALANISAMY

... Respondents / Appellants

Civil Miscellaneous Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to permit the Petitioner herein/Respondent to withdraw the 50 percent of the compensation amount, which has been deposited by the respondents/appellants in E.C.No.80 of 2018, on the file of the Employees Compensation Tribunal, Dindigul, pending disposal of the above Civil Miscellaneous Appeal.

Prayer in CMA(MD). 629/ 2023 :

Civil Miscellaneous Appeal filed under Section 30 of Workmens Compensation Act, to set aside the impugned order passed in E.C.No.80 of 2018 dated 27-02-2023 on the file of the Commissioner, Employees Compensation Tribunal, Dindigul.

ORDER : This civil miscellaneous petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.S.SANKAR, Advocate for the petitioner and of Mr.D.KIRUBAKARAN, Advocate on behalf of the Respondents, the court made the following order:-

This Petition is filed seeking permission to the Petitioner to withdraw 50% of the compensation amount.



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2. It is the submission of the learned counsel for the Petitioner that the Petitioner was engaged by the respondents for repair work in the well situated in S.No.77, S.C.No.30, Navalathur Village, Vedasandur Taluk. During the course of employment, he sustained grievous injury all over his body, ie, in the head, neck, chest bone and in both legs he suffered fracture. He filed E.C.No.80 of 2018, on the file of Employees Compensation Tribunal, Dindigul seeking compensation and after elaborate enquiry, a total compensation of Rs.15,24,650/- was awarded. As against the said award, C.M.A(MD)No.629 of 2023 is pending before this Court. In the meanwhile, the respondents deposited a sum of Rs.18,83,670/- by way of Demand Draft in the name of the Joint Commissioner of Labour, Dindigul. He further submitted that the Petitioner has to meet his medical expenses and also the school fees of his daughter. He is immobilized and finds it difficult to make a living. Thus, this Petition is filed.

3. The learned counsel for the respondents opposes this Petition on the ground that he raised an issue regarding the maintainability of the Petition, without impleading the immediate employer of the Petitioner. The Petitioner was not directly employed by the respondents, but he was employed only through the Contractors. However, the contractors have not been impleaded. In the absence of impleading the contractors, the very filing of the claim petition and the award



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passed thereon, are totally not correct.

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4. When this Court enquired as to whether there is any written contract between the respondents and the alleged contractors, the learned counsel for the Petitioner answered that there is no written contract. In the absence of any written contract between the respondents and the alleged contractors, the contention raised by the learned counsel for the respondents that the non-impleadment of the alleged contractors would be fatal to the case of the Petitioner, cannot be accepted.

4. Considering the nature of the injuries suffered by the Petitioner and the extent of disability, this Court finds it appropriate to permit the Petitioner to withdraw the amount as prayer for by the Petitioner and accordingly, this Court permits the Petitioner to withdraw 50% of the amount deposited in E.C.No.80 of 2018 before the Joint Commissioner of Labour, Dindigul.

5. With the above direction, this Petition is allowed.

sd/-
05/10/2023

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/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSN



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To **மேதர் அரங்கம்**

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The Commissioner,
Employees Compensation Tribunal,
Dindigul.

Copy to:

The Joint Commissioner of Labour,
Dindigul.

+1 CC to M/s.S.SANKAR, Advocate (SR-14696[I] dated 05/10/2023)

ORDER
IN
CMP(MD) No.10220 of 2023
IN
CMA(MD) No.629 of 2023
Date :05/10/2023

ED/DD/SAR- (10/10/2023) 4P / 4C

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