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S.A.No.693 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2024

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

S.A.No.693 of 2021
and
C.M.P.No.13900 of 2021

Elumalai

... Appellant

Vs.

Pandiyan

... Respondent

PRAYER: Second Appeal filed under Section 100 of Code of Civil Procedure, 1908 against the Judgment and Decree in A.S.No.42 of 2018 dated 21.11.2019 on the file of the Principal District Judge, Tiruvannamalai confirming the Judgment and Decree in O.S.No.160 of 2012 dated 15.11.2016 on the file of the Additional Subordinate Judge, Tiruvannamalai.

For Appellant : Mr.D.Baskar

JUDGMENT

This Second Appeal has been filed challenging the concurrent findings of the Courts below. The defendant in the suit is the appellant herein and the respondent is the plaintiff. In the forthcoming paragraphs, the parties are described as per their litigative status in the suit.



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2. The suit has been filed by the plaintiff, seeking recovery of money for the injuries sustained by him while carrying out the work of removal of stones entrusted to him by the defendant in the defendant's land. The defendant disputed his liability to pay compensation by stating that the suit is not maintainable and further, the plaintiff is not entitled for any compensation.

3. The Trial Court by its Judgment and Decree dated 15.11.2016 passed in O.S.No.160 of 2012 decreed the suit in favour of the plaintiff by directing the defendant to pay the compensation of Rs.80,000/- together with interest at 7.5% per annum. Aggrieved by the judgment and decree dated 15.11.2016 passed by the Trial Court in O.S.No.160 of 2012, the defendant preferred first appeal before the Principal District Court, Tiruvannamalai in A.S.No.42 of 2018. The lower appellate Court also confirmed the findings of the Trial Court by holding that the plaintiff is entitled for compensation as determined by the Trial Court in its Judgment and Decree dated 15.11.2016. Aggrieved by the concurrent findings of the Courts below, the present second appeal has been filed.



4. The learned counsel for the defendant would submit that the suit filed by the plaintiff is not maintainable as per Section 19 of the Employees' Compensation Act, 1923. According to him, the plaintiff is an employee and as per Section 19 of the Employees' Compensation Act, 1923, being an employer-employee dispute, the suit is barred under law. He would also submit that without any evidence, both the Courts below, have concurrently held that the plaintiff is entitled for compensation for the injuries sustained by him in the defendant's land.

5. The learned counsel for the defendant also relied upon Schedule II - (iii), (iv) and (v) of the Employees' Compensation Act, 1923 and would submit that the suit filed by the plaintiff is not maintainable. As seen from the impugned judgments of the Courts below, both the Courts have concurrently held that the defendant had entrusted the plaintiff with the work of removal of stones in the defendant's land and while doing the said work, the plaintiff had sustained injuries for which the suit for compensation was filed by the plaintiff.

6. Before the Trial Court, the plaintiff had filed 6 documents which



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are marked as exhibits which includes F.I.R. as well as the discharge summary to prove that the plaintiff had sustained injuries while doing the work entrusted to him by the defendant in the defendant's land and he had also sustained injuries while doing the said work which is evidenced from the discharge summary as well as the F.I.R.

7. On the side of the plaintiff two witnesses were examined. On the side of the defendant two witnesses were also examined. However, on the side of the defendant no documentary evidence was produced.

8. Both the Courts below have rightly appreciated the evidence available on record to come to the conclusion that the plaintiff had sustained injuries while doing the work entrusted to him by the defendant, in the defendant's land and the defendant is liable to compensate the plaintiff for the same. Being factual findings and only based on the evidence available on record, both the Courts have rightly come to the conclusion that the plaintiff is entitled for the suit claim as rightly decreed in the suit.

9. In so far as the contention of the learned counsel for the appellant



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that Section 19 of the Employees' Compensation Act, 1923 gets attracted and a Civil suit is barred for the relief sought for by the plaintiff is concerned, the same has to be rejected as the plaintiff was not an employee of the defendant but he was only a casual worker engaged by the defendant for the purpose of doing a particular work viz., removal of stones from the defendant's land. Only in case of regular employees employed by any employer, where job security is provided for the employee, the Employees' Compensation Act, 1923 gets attracted, whereas in the instant case, it is not so. Hence, this Court does not find any merit in this second appeal. Accordingly, this second appeal is dismissed. No Costs. Consequently, connected C.M.P. is closed.

12.06.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To

1. The Principal District Judge, Tiruvannamalai.
2. The Additional Subordinate Judge, Tiruvannamalai.
3. The Section officer, Record Section, High Court of Madras.



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ABDUL QUDDHOSE. J.,

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