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C.M.A.No.3201 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3201 of 2024

Kolandhaivel

... Appellant

Vs.

1.Navaladi

2.Reliance General Insurance Company Limited,
Sri Meenakshi Plaza, 1st Floor,
No.HIG 55, 80 Feet Road,
Anna Nagar, Madurai-626 020.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, against the order dated 25.04.2024 passed in E.C.No.56 of 2021 by the Commissioner of Workmen's Compensation, (Sitting at Erode), Coonoor.

For Appellant : Mr.R.Nalliyappan

For R2 : Mr.Suresh Srinivasan



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J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 25.04.2024 passed in E.C.No.56 of 2021 by the Commissioner of Workmen's Compensation, (Sitting at Erode), Coonoor.

2. The appellant/claimant was working as cleaner/load man in the auto bearing Registration No.TN 88 B 6954 belonging to the first respondent. On 13.11.2020 at about 12.00 p.m., when the appellant was unloading a cement pipe from the load auto, a cement pipe accidentally fell on the right leg of the appellant, as a result of which, the appellant sustained fracture injuries. He took treatment in a private hospital in Mohanur and thereafter, was shifted to Maruthi Hospital, Namakkal. The appellant filed a claim petition claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him, during and in the course of employment.

3. The Tribunal, after considering the materials placed before it and the submissions of both sides, dismissed the claim petition on the



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ground that there is no employer-employee relationship between the appellant and the first respondent and that the accident has not been occurred during and in the course of employment and no compensation is liable to be paid under the Workmen Compensation Act. Challenging the same, the present Civil Miscellaneous Appeal has been filed.

4. The learned counsel appearing for the appellant submits that the Tribunal failed to consider that at the time of accident, the appellant was working as loadman/cleaner and it was admitted by the employer/first respondent. He further submits that the Tribunal also failed to consider that the appellant suffered with fracture and severe injuries in the right leg leading to 5% permanent disability. Therefore, the award has to be set aside and the suitable compensation has to be awarded for the injuries sustained and suffered by the appellant/claimant during and in the course of employment.



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5. The learned counsel appearing for the second respondent submits that the second respondent contested the claim petition before the Tribunal and stated that there is no employer-employee relationship between the appellant and the first respondent and that the entire case was built on the premise of claiming compensation by suppressing the material facts. That apart, the claimant is not at all the employee of the first respondent, but was working in the shop to which cement pipes were delivered. The second respondent has also submitted that no documents were produced to prove that on the date of accident, the said cement pipes were delivered and at the time of unloading the said cement pipes, injuries were sustained by the claimant. There is no FIR registered with respect to the accident and therefore, the second respondent cannot be held liable to pay the compensation.

6. This Court perused the materials available on record and considered the submissions made on both sides.



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7. Admittedly, no document has been produced before the Tribunal to prove the employer-employee relationship between the appellant and the first respondent. That apart, no FIR has been registered with respect to the accident that has been occurred. It is also to be noted that though Ex.P6/Discharge summary was filed, where in case history, it has been mentioned “History of Fall of Weight and got injury to right leg”, the Wound Certificate is dated 15.08.2023, (i.e.), which is after a period of three years from the date of accident, where it has been stated that the injuries sustained by the appellant was because of fell of cement pipe, while he was unloading the cement pipe in the scene of occurrence. From the above, it is clear that the wound certificate is a fake document and it has been created only for the purpose of claiming compensation under the Workmen Compensation Act. In the absence of any document to prove the employer-employee relationship as well as the veracity of the wound certificate which is three years after the date of occurrence, the Tribunal has rightly dismissed the claim petition filed by the appellant/claimant and it



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does not warrant any interference of this Court. Therefore, the order dated 25.04.2024 passed in E.C.No.56 of 2021 by the Commissioner of Workmen's Compensation (Sitting at Erode), Coonoor, is hereby confirmed.

8. Accordingly, this Civil Miscellaneous Appeal is dismissed.

There shall be no order as to costs.

10.12.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To
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1. The Commissioner of Workmen's Compensation,
(Sitting at Erode), Coonoor.
2. The Section Officer,
V.R. Section,
High Court, Chennai.



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M.DHANDAPANI, J.

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