



C.M.A(MD)No.1393 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1393 of 2012

and

M.P.(MD).No.2 of 2012

M.Ramachandran

... Appellant

Vs.

1.D.Shanmuga Sundaram

2.The Tamilnadu Adi Dravidar Housing
and Development Corporation Limited
(TAHDCO),
represented by its General Manager (Technical),
Thirumangalam, Chennai-600 101.

...Respondents

***(Respondent No.2 is impleaded as per the order
of this Court dated 30.11.2023 made in MP(MD)
No.3 of 2012 in CMA(MD)No.1393 of 2012)***

PRAYER: Civil Miscellaneous Appeal is filed under Section 30 of the Workmen Compensation Act, 1923, against the order dated 23.05.2012 received on 23.06.2012, passed in W.C.No.148 of 2007 by the Commissioner of Workmen Compensation, Madurai.

For Appellant	: Mr.J.Barathan
For R1	: Mr.P.Arumugam
For R2	: No appearance



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JUDGMENT

The present Civil Miscellaneous Appeal is filed by the alleged employer.

2. The contention of the 1st respondent herein / claimant is that while he was working under the appellant herein and had sustained injuries on his hip, right leg and left hand and he also sustained fracture injury and was under treatment. He underwent surgery for which he has claimed compensation before the Commissioner and after considering the case, the Commissioner has awarded compensation to the tune of Rs.1,76,386/-. The contention of the appellant / employer is that the injured was putting up construction for TAHDCO, hence, the principal employer TAHDCO is liable to pay the compensation. Even though the appellant employer has averred the same in his counter, no issue was framed for the said plea and the Commissioner has not discussed about the same.

3. Therefore, it is a case for remand but it is seen that the appellant / employer has not produced any evidence before the Commissioner to prove that there was a contract between the appellant employer and TAHDCO. In such



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circumstances, the claimant cannot be made to suffer. Therefore, the amount already deposited by the appellant employer shall be disbursed to the claimant. However, the matter is remitted back to the Commissioner only for the sole issue to be considered is whether the appellant herein is liable to pay or TAHDSCO is liable to pay or both are liable to pay. The matter is remitted back to the Tribunal only to this extent. The Commissioner shall complete the proceedings within a period of six months from the date of receipt of a copy of this judgment.

4. With the above said observation, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

24.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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1. Commissioner of Workmen Compensation, Madurai.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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