



C.M.A.(MD) No.530 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.530 of 2010

and

M.P.(MD)No.1 of 2010

I.Vetrivel.

... Appellant

Vs.

1.R.Poun @ Pounthai,

2.Management,
Gundumani Quarry,
Karuthamalai Karadu,
Ceylon Colony,
SS Puram PO,
Aundipatti Taluk,

3.Management,
Hitler Quarry,
Karuthamalai Karadu,
Ceylon Colony,
SS Puram PO,
Aundipatti Taluk,

4.The District Collector,
Theni.

5.The Assistant Director,
Mines & Minerals,



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District Collectorate,
Theni-Madurai Road,
Theni.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, to set aside the impugned order dated 31.12.2009 passed in W.C.No.301 of 2004 on the file of the Deputy Director of Labour, Dindigul.

For Appellant	: Mr.L.Siva for Mr.G.Mohan Kumar
For Respondents	: Mr.C.Sundaravadivel for R1 Mr.S.Bala Karthick for R2 Mr.M.Jegadeesh Pandian for R3 Mr.V.Omprakash, Government Advocate for R4 & R5

J U D G M E N T

The appellant, aggrieved by the award of the Commissioner on the ground of liability, has preferred the instant appeal.

2. The first respondent herein filed a claim petition stating that while she was working in a quarry belonging to the second respondent herein, a stone from the quarry belonging to the third respondent herein had fallen on her, as a result of which she sustained grievous injuries.



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3. The respondents 1, 2 and 3 denied the averments in the claim petition and hence, prayed for dismissal of the claim petition.

4. The appellant filed a counter stating that the claimant was not employed under the appellant and there was no employee-employer relationship warranting the award of compensation to the claimant by the appellant and prayed for dismissal of the claim petition.

5. The claimant examined herself as P.W.1 and Doctor as P.W.2 besides marking Exs.P1 to P4. The third respondent examined R.W.1 and marked Ex.R1. The appellant had examined himself as R.W.2.

6. The Commissioner, after taking into consideration the oral and documentary evidence, held that the claimant had sustained injuries during the course of employment and that since the appellant is a leaseholder of the quarry and allegedly sublet the same to respondents 2 and 3, which cannot be recognised, the claimant would be deemed to be an employee of the appellant and is liable to pay the compensation.

7. The learned counsel for the appellant submitted that though the



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appellant was the lessee in the quarry, respondents 2 and 3 had been carrying on the quarrying activities illegally and hence, the appellant is not liable to pay the compensation.

8. The learned counsel for the respondents, per contra, submitted that the award of the Tribunal is reasonable and no interference is called for.

9. On perusal of the award of the Tribunal, it is seen that admittedly, the appellant was the lessee in the quarry land, in which, the first respondent sustained injuries. Factually, the Commissioner, therefore, found that the appellant is deemed to be the employer. The Commissioner being the final fact-finding authority and in the absence of any substantial question of law, this Court is of the view that the said finding, which is not perverse, cannot be interfered with and hence, the appeal is liable to be dismissed. However, if the appellant claims that any third party was running the quarry illegally, it is open to the appellant to recover the compensation paid from the said person in accordance with law.

10. The first respondent/claimant is permitted to withdraw the



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compensation amount deposited, together with proportionate interest and costs, less the amount already withdrawn, if any, by filing an appropriate application before the Commissioner.

11. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.09.2024

Index: Yes/ No
NCC: Yes / No
Speaking Order / Non-Speaking Order
apd

To:
1.The Deputy Director of Labour, Dindigul.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

apd

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