



C.R.P. (MD) No. 587 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2024

CORAM

THE HON'BLE MRS. JUSTICE L.VICTORIA GOWRI

**C.R.P. (MD) No.587 of 2021
and
C.M.P.(MD).No.3226 of 2021**

Seenivasan Chettiar (Died)

2.S.Badri Vishalatchi

3.Sai Subramanian

... Petitioners

(Petitioner Nos.2 and 3 are brought on record as legal representatives of the deceased sole petitioner vide Court order dated 15.02.2024 made in C.M.P. (MD).Nos.14381 and 14382 of 203 in C.R.P.(MD).No.587 of 2021)

-VS-

Muthukaruppan

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to call for the records in W.C.No.37 of 2013 on the file of the Deputy Commissioner of Labour (Workmen Compensation Tribunal), Madurai and to set aside the award dated 02.01.2021 by allowing this Civil Revision Petition.

For Petitioner : Mr.B.Babu Rajemdran

For Respondents : No Appearance



C.R.P. (MD) No. 587 of 2021

WEB COPY

ORDER

This Civil Revision Petition came to be filed assailing the order passed by the Workman Compensation Tribunal at Madurai in W.C.No.37 of 2013, dated 02.01.2021.

2. For the sake of clarity and convenience, the parties are hereinafter referred as per ranking in the Original Suit.

3. The petitioner herein is the respondent before the Tribunal. Claiming to be the Workman of the respondent, the claim petitioner had filed W.C.No.37 of 2013 before the Tribunal for the injuries sustained by him during the period 2007. The said case was originally numbered as W.C.No.48 of 2011 and later, renumbered as W.C.No.37 of 2013.

4. The Claim Petition was opposed by the respondent by filing a counter elaborately pleading that no Master-Servant relationship subsists between the Claim Petitioner and the respondent. Subsequently, the same came to be dismissed for default on 25.03.2019. Following which, an interim application in I.A.No.47 of 2019 came to be filed by the claim petitioner before the



C.R.P. (MD) No. 587 of 2021

Tribunal seeking to condone the delay in filing an application for restoration of the dismissal order dated 25.03.2019. The said Application was opposed by the respondent by filing an elaborate counter contending that the said Claim petition in W.C.No.37 of 2013 came to be dismissed for default during the years 2010, 2013 and 2016 and it was for the fourth time, the case was dismissed for default on 25.08.2019. The claim petitioner having failed to diligently conduct the claim petition before the Tribunal is not entitled to seek for restoration of the same by filing application for condoning the delay and that too even without stating the number of days of delay in filing the said application. Interestingly, even without considering the said application directly, the trial Court later proceeded to decide the main claim petition itself and had passed a favorable order directing the respondent to pay an amount of Rs.3,43,270/- (Rupees Three Lakhs Forty Three Thousand Two Hundred and Seventy only) as compensation to the claim petitioner. Though an appeal provision is available under Section 30 of the Workman Compensation Act, 1923, since the Tribunal had committed an error apparent on record by not proceeding to adjudicate I.A.No.47 of 2019 which was filed by the claim petitioner to condone the delay in filing the petition for restoring the dismissal order dated 25.03.2019, the respondent has filed this Civil Revision Petition.



C.R.P. (MD) No. 587 of 2021

5. It is needless to state that the Tribunal ought not to have directly adjudicated the main claim petition in W.C.No.37 of 2013 without even considering the application in I.A.No.47 of 2019 which was one for condoning the delay in filing the application for restoration of the claim petition, since the default was not for the first time but for the fourth time.

6. Mr.Babu Rajendran, learned counsel appearing for the respondent drew my attention to the fact that in this Civil Revision Petition, the notice has been ordered and thereafter, paper publication was effected and despite the same workman did not turn up, as a result of which, his name has also been printed in the cause list and that this Civil Revision Petition was filed as early as in the year 2021.

7. In view of the same, since the error committed by the Tribunal which is apparent on the face of record has been clearly substantiated by the respondent, the Civil Revision Petition is ordered and the order passed by the Deputy Commissioner of Labour (Workmen Compensation Tribunal), Madurai in W.C.No.37 of 2013 is hereby quashed.



C.R.P. (MD) No. 587 of 2021

8. Accordingly, the Civil Revision Petition is allowed. No costs.

Consequently, the connected miscellaneous petition is closed.

15.07.2024

Index : Yes/No

Internet : Yes/No

TSG

To

1. The Deputy Commissioner of Labour

(Workmen Compensation Tribunal), Madurai.

2. The Section Officer, Vernacular Section,

Madurai Bench of Madras High Court, Madurai.



WEB COPY



C.R.P. (MD) No. 587 of 2021

L.VICTORIA GOWRI, J.

TSG

C.R.P.(MD).No.587 of 2021

15.07.2024