



C.M.A.(MD).No.87 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 04.12.2023

PRONOUNCED ON : 31.01.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.87 of 2018

and

C.M.P.(MD)No.1293 of 2018

The Manager,
Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Modern Rice Mill,
Thiruvarur.

... Appellant

Vs.

V.Rengadoss

... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 30(1) of the Workmen's Compensation Act, to set aside the award dated 01.12.2016 made in W.C.No.11 of 2012 on the file of the Commissioner of W.C., and the Deputy Commissioner of Labour Tribunal, Tiruchirappalli.

For Appellant	: Mr.G.Mohan Kumar
For Respondent	: Mr.V.Muthu Kamatchi



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JUDGMENT

This Civil Miscellaneous Appeal has been filed by the second respondent Insurance Company, challenging the award on certain counts passed by the Commissioner of Workmen's Compensation, (Deputy Commissioner of Labour), at Tiruchirappalli in W.C.No.11 of 2012 on 01.12.2016.

2.For the sake of convenience, the parties are addressed herein as per the rank in W.C.No.11 of 2012.

3.The brief facts leading to the filing of the Civil Miscellaneous Appeal is as follows:-

The petitioner is the workman employed by the respondent employer in New Modern Rice Mill on 15.05.1998 for more than 22 years. At the time of the accident, the petitioner was working as an Assistant Operator. On 14.03.2011, the petitioner was working in the B Section of the Mill house, New Modern Rice Mill, Tiruvarur owned by the respondent and at about 02.45 p.m., his left leg was caught in the open mup coupling of the 6th elevator when he tried to adjust a block in

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that particular 6th elevator and the same was 22 feet high. His left leg was caught in the open mup cuppling and was crushed upto the horsenose.

One of the employee thoughtfully stopped the motor and only thereafter the petitioner's crushed leg could be pulled out. Due to the serious accident, the petitioner's nerves were seriously damaged and there was severe and heavy loss of blood. At the first instance, he was given first aid at Tiruvarur Medical College hospital and thereafter, for further treatment, he was referred to Vinodhakan Memorial Hospital, Thanjavur and was admitted as in patient on the same day I.e. on 14.03.2011 and an urgent surgery was performed. Unfortunately, the surgery was not successful because of heavy loss of blood and serious damage to the veins and further on medical advice, the petitioner underwent another surgery on 07.04.2011. Even then the Doctors at Vinodhakan Memorial Hospital, Thanjavur had to amputee the left leg from foot to knee to save the petitioner's live. The petitioner was treated as in patient from 14.03.2011 to 20.04.2011 I.e. for 36 days in Vinodhakan Memorial Hospital, Thanjavur and later discharged on 20.04.2011 with amputated left leg causing him a permanent disability. The petitioner had to spent Rs.4,50,000/- for the treatment and however, the opposite party



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sanctioned only a medical advance of Rs.1,00,000/-. Tiruvarur Police registered a FIR in Crime No.108 of 2011. Seeking for compensation for the partial permanent disability, the petitioner filed application in W.C.No.11 of 2012 before the learned Commissioner of Labour, at Tiruchirappalli.

4.The respondent had filed a counter and pleaded that the accident happened only due to the petitioner's autocratic attitude of disobeying his higher authorities and because of his overconfidence. Without approval from the appropriate authorities, he tried to remove the block from the elevator while the elevator was functioning. As the result of which, only because of his irresponsible attitude, the accident had happened. Already the respondent administration has sanctioned Rs.2,25,000/- towards medical expenditure and compensation. That apart, a monthly allowance of Rs.1,000/- has also been sanctioned to him towards disability allowance. In view of the same, it was pleaded to dismiss the application.

5.The learned Tribunal has framed five issues. Two witnesses was examined as P.W.1 to P.W.2 and was marked as Ex.P1 to Ex.P19 on the



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side of the petitioner and one witness R.W.1 was examined and three documents Ex.R1 to Ex.R3 were marked. On the basis of the oral and documentary evidence and arguments by respective parties, the learned Tribunal proceeded to conclude that the accident had happened only during the course of employment in the respondent's modern rice mill. Thereafter, on the basis of the various documents especially the partial permanent disability certificate, which was marked as Ex.P19, the learned Tribunal fixed the partial permanent disability at 54%. On the basis of Ex.R3 and Ex.R14, salary receipt and salary certificate respectively, the learned Tribunal confirmed that the petitioner received a salary of Rs.15,427/- for the month of March 2011. However, relying upon the Workmen's Compensation Act, the maximum limit of monthly income was fixed at a notional income as Rs.8,000/-. On the basis of the service record marked as Ex.R1, his age was fixed as 49 years and thereafter, the learned Tribunal proceeded to calculate the compensation as Rs.4,05,570/- $[60/100 \times 80,000 \times 156.47 \text{ (Relevant factor)} \times 54/100]$.

6.Challenging the same, the appellant/respondent had filed this Civil Miscellaneous Appeal on the ground that the learned Tribunal



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ought not to fix the loss of earning capacity as 54% without any admissible evidence.

7.That apart it was contended by the learned counsel for the appellant/respondent that the accident happened only due to carelessness and irresponsible attitude of the petitioner and hence, the learned Tribunal is not justified in passing the award of Rs.4,05,570/-.

8.However, on perusal of the materials available on record and the evidence of P.W.1 and R.W.1 and considering that the petitioner had sustained grave injury to the extent of amputation of left leg, I do not find any infirmity in fixing the disability as 54% despite the Doctor who examined the petitioner had issued a partial permanent disability certificate as 60% (as per Ex.P19).



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9. Accordingly, the Civil Miscellaneous Appeal stands dismissed.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

31.01.2024

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

To

1. The Deputy Commissioner of Labour,
Tiruchirappalli.
2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Mrn

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