



C.M.A(MD)No.1056 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 12.02.2024

CORAM:

THE HON'BLE MR.JUSTICE **P. DHANABAL**

C.M.A(MD)No.1056 of 2014

The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Thuraimangalam,
Perambalur.

... Appellant/2nd Respondent

Vs.

1.N.Nallappan

... Respondent/Petitioner

2.The State of Tamilnadu,
Represented by its District Collector,
Collectorate,
Perambalur.

3.The Special Tahsildar,
Taluk Supply Officer,
Tamilnadu Civil Corporation Limited,
Thuraimangalam,
Perambalur.

... Respondents 2 and 3/
Respondents 1 and 3

Prayer : This Civil Miscellaneous Appeal filed under Section 30 of the Workmen Compensation Act VIII of 1923, to set aside the award, dated 03.02.2014 made in W.C.No.257 of 2011 on the file of the Commissioner Workmen's Compensation (DCL), Trichy.



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For Appellant : Mr.L.Siva
for Mr.G.Mohan Kumar

For Respondents : No appearance

JUDGMENT

The present Civil Miscellaneous Appeal has been preferred as against the order passed in W.C.No.257 of 2011 on the file of the Commissioner of Workmen's Compensation (DCL), Trichy, wherein the first respondent has filed the claim petition for the injury sustained by him in an accident while he was under the employment when he was in service.

2. The Tribunal has awarded a sum of Rs.4,28,376/- disputing the quantum of amount. As against the award passed by the Tribunal, the present Civil Miscellaneous Appeal has been filed by the appellant / second respondent.

3. For the sake of convenience and brevity, the parties herein after will be referred to as per their status/ranking in the Tribunal.



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4. The brief facts of the petition averments are as follows:

The claimant was employed as a load man in the Tamil Nadu Civil Supply Corporation Limited, Perambalur. He was earning a sum of Rs.300/- per day. On 11.06.2011 in the after noon, when the claimant was on duty as load man and when he was regulating the rice bags in order in rows, a rice bag had got slippery movement from its row and fallen down on his right leg and caused severe fracture, multiple grievous injuries and simple injuries. The injury sustained by the petitioner was while he was during and under the course of his employment as load man under the respondent. The claimant sustained permanent disability and he was aged about 40 years and thereby, the respondents are liable to pay a compensation of Rs.15,00,000/-.

5. The gist of the counter stated by the second respondent are as follows:

The petitioner was engaged as a casual on daily wage basis as a load man on certain days and it is false to stated that he received daily wages of Rs.300/- per day and he was earning a sum of Rs.1,000/- per month in average. The accident occurred due to the carelessness and the negligence



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on the part of the petitioner. The allegations in respect of the amputation from the bottom of right femur and thigh is denied and false and the petitioner is put to strict proof of the same. Therefore, the petition is liable to be dismissed.

6. Before the Tribunal, in order to prove the case of the petitioner, the petitioner has examined P.W.1 and marked Exhibits P.1 to P.9 and on the side of the respondents, R.W.1 was examined and marked Exhibits R.1 to R.4.

7. After analyzing the evidences adduced on either side, the Tribunal has awarded a sum of Rs.4,28,376/-. Aggrieved over the above said award amount, the present Civil Miscellaneous Appeal has been preferred by the respondent Tamil Nadu Civil Supply Corporation on various grounds.

8. The main ground is the award passed by the Tribunal is too high and the Tribunal has taken a sum of Rs.9,000/- per month instead of taking Rs.1,000/- per month.



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9. The learned Counsel appearing for the appellant / second respondent would contend that the first respondent / petitioner was working as a load man on casual daily wages and he was earning a sum of Rs.300/- per day and he is only earning Rs.1,000/- per month but the Tribunal has fixed a sum of Rs.9,000/- per month. In order to prove the same, they examined R.W.1 and marked Exhibits R.1 to R.4. Exhibit R.1 is the salary certificate, but the Tribunal has failed to consider the same and awarded excess amount. Hence, the order passed by the Tribunal is liable to be set aside.

10. There is no representation on the side of the respondents.

11. Though notice was not served to the claimant, considering the nature of claim, this matter is taken up for hearing with the consent of the appellant / second respondent.

12. This Court had heard the appellant / second respondent and perused the materials available on record. Now the point is whether any



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substantial question of law is involved in this case and the appeal is liable to be allowed or not?

13. It is admitted that the respondent / petitioner was working under the employment of second respondent and there is no dispute in respect of the relationship between parties as employer and employee. The only contention of the appellant / second respondent is that the claimant was not earning a sum of Rs.300/- per day. In this context, the evidence of P.W.1 reveals that the claimant was earning a sum of Rs.300/- per day and the R.W.1 also admitted that the petitioner was earning a sum of Rs.300/- per day. Thereby, the Tribunal has taken a sum of Rs.9,000/- as monthly income of the respondent / petitioner. There is no contravention that the respondent / petitioner sustained grievous injury and his leg is amputated. Therefore, considering the nature of injury and considering the salary of the first respondent / petitioner, the Tribunal has correctly awarded a just and fair compensation based on the admission made by the evidence of R.W.1 (i.e.,) respondent's side witnesses.



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14. In view of the above said discussions, there is no perverse or infirmity in the order passed by the Tribunal and no any substantial question of law is involved in this case. Hence, the order passed by the Tribunal in W.C.No.257 of 2011 on the file of the Commissioner of Workmen's Compensation (DCL), Trichy, dated 03.02.2014 is in order and this Civil Miscellaneous Appeal has no merits and deserves to be dismissed. Already the award amount was deposited by the appellant / second respondent and the petitioner / first respondent is at liberty to withdraw the same in accordance with law.

15. In the result, this Civil Miscellaneous Appeal stands dismissed.

There shall be no order as to costs.

12.02.2024

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

To

1.The Commissioner Workmen's Compensation (DCL),
Trichy.



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2. The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



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P. DHANABAL, J.

BTR

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