



C.M.A(MD)No.459 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.03.2024**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.459 of 2023

and

C.M.P.(MD)No.8890 of 2023

Mr.N.K.Ismail Khan

... Appellant

Vs.

1. Tmt.Dhanam
2. Minor Muthukumar
3. Minor Devi
4. Minor Gokila
5. Tmt.Kamatchi (Died)
6. Tmt.Chinnapillai (Died)
7. JJ.Srivathsan
8. Vaitheeswaran
9. Kathireesan
(Minors 2 to 4 are represented by
their mother 1st petitioner)

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, to set aside the impugned Ex-parte order dated 24.02.2020 in W.C.No.79 of 2012, on the file of the Employees Compensation Commissioner-Joint Commissioner of Labour, Tiruchirappalli.



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For Appellant : Mr.K.Rajmohan
For R-1 to R-4 : Mr.R.Paranjothi
For R-7 : Mr.V.Nirmal Kumar
For R-9 : Mr.Arul Jenifer

JUDGEMENT

This Civil Miscellaneous Petition is preferred by the owner of the land against the award passed by the authority under Workmen Compensation Act.

2. The brief facts are that the appellant is the owner of the land, who had entered into contract with the Respondents No.7 and 8 to put up construction. While the construction was going on, the worker who was employed died due to some accident. The family of the deceased had filed petition before the authority under Workmen Compensation Act. The authority had awarded compensation of Rs.6,15,621/- (Rupees Six Lakh Fifteen Thousand Six Hundred and Twenty One only) along with



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12% interest for the period from 12.12.2011 to 12.09.2022 which is totally Rs.7,95,011/- (Rupees Seven Lakh Ninety Five Thousand and Eleven only). Before filing this appeal, the appellant party has deposited Rs.6,15,621/- (Rupees Six Lakh Fifteen Thousand Six Hundred and Twenty One only) on 12.09.2022.

3. The contention of the appellant is that since the respondents No. 7 and 8 are the contractors, who had put up construction, they should have insured the worker with Insurance Company in case of certain untoward incidents. So that when such accident happens, the Insurance Company will pay the compensation. Since the contractors had failed to do so, hence the liability should be fixed on them. This Court is of the considered opinion that the appellant cannot shift the entire liability on the respondents 7 and 8. At the same breath respondents No.7 and 8 cannot deny their liability. Therefore this Court is fixing the liability on the appellant and respondents 7 and 8 jointly and they are jointly liable to pay the compensation to the family of the deceased.



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4. The award amount fixed by the authority is Rs.6,15,621/- and for the said amount accrued interest along with the principal amount is Rs.7,95,011/- (Rupees Seven Lakh Ninety Five Thousand and Eleven only). This Court is fixing the compensation of Rs.10,00,000/- (Rupees Ten Lakh only) as full quit. In which the appellant is liable to pay Rs. 6,00,000/- (Rupees Six Lakh only), the seventh respondent is liable to pay Rs.2,00,000/- (Rupees Two Lakh only) and the eight respondent is liable to pay Rs.2,00,000/-(Rupees Two Lakh only). Since the appellant had already deposited Rs.6,00,000/-(Rupees Six Lakh only), he is entitled to withdraw Rs.15,621/- (Rupees Fifteen Thousand Six Hundred and Twenty One only). The seventh Respondent is directed to deposit Rs. 4,00,000/- (Rupees Four Lakh only) in two installments. However, the seven Respondent is at liberty to collect the share of the eighth respondent to the tune of Rs.2,00,000/- (Rupees Two Lakh only) from the eighth respondent. In case of default by the seventh and eighth respondents, the amount of Rs.4,00,000/- shall carry interest of 7.5 %. The interest shall be payable by the seventh respondent and eighth respondent, in case of default. If eighth respondent is committing any



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default the seventh respondent shall collect the amount along with 7.5% interest.

5. The 1st claimant / wife is entitled to withdraw Rs.4,00,000/-. The claimants 2 to 4 are minors and hence their share of Rs,2,00,000/- each shall be deposited in any one of the Nationalized Bank in an interest accruing deposit. The 1st claimant/mother shall entitle to withdraw interest from the deposit once in every three months. The minors are entitled to withdraw their share on attaining majority.

6. This Court had already passed an interim order directing the claimant to withdraw Rs.1,00,000/- (Rupees One Lakh only). But the Learned Counsel for the appellant submitted that the claimants had not withdrawn the said amount. Therefore, earlier order is recalled. Now the 1st claimant is at liberty to withdraw Rs.4,00,000/- (Rupees Four Lakhs only).

7. With the above said direction, this Civil Miscellaneous Appeal



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is allowed. Consequently, connected miscellaneous petition is closed.

25.03.2024

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

1.Joint Commissioner of Labour
Tiruchirappalli.

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



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S.SRIMATHY, J.

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Order made in
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