



C.M.A.(MD).No.798 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.798 of 2017

and

C.M.P(MD) No.8642 of 2017

The Commissioner,
Madurai Corporation,
Madurai.

... Appellant/2nd Respondent

-vs-

1. A.Kandasamy

2. Vasantha

3. K.Saravanan

4. Minor. K.Sathya

... Respondents 1 to 4/Claimants

(Minor 4th respondent is represented by
her natural Guardian father the first
respondent herein)

5. The Manager,
STAR Air Conditioners,
No.1, RMR Complex,
Opposite to Devaki Scans,
S.S.Colony, Madurai – 625 010.

...5th Respondent/1st Respondent



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PRAYER: Civil Miscellaneous Appeal filed under Section 30(1) of Workmen's Compensation Act, against the order dated 28.04.2016 in W.C.No. 60 of 2011, on the file of the Tribunal for Workmen Compensation at Madurai.

For Appellant : Mr.S.Vinayak

For R1 to R4 : Mrs.B.Asha

For R5 : No appearance

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the appellant/second respondent challenging the award passed in W.C.No. 60 of 2011, on the file of the Commissioner for Workmen's Compensation at Madurai, on the ground that the fifth respondent in the appeal alone is the employer and the liability ought not to have been mulcted upon the Madurai Corporation.

2. According to the learned counsel appearing for the appellant, the deceased was an Air Conditioner Mechanic, working under the fifth respondent. When one of the Air Conditioners was under repair in the Corporation, the fifth respondent Company was called upon to rectify the said



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repair. The Air Conditioner Mechanic, who was employed under the fifth respondent, at the time of attending the said repair, had slipped, fallen down from the sunshade, sustained grievous injuries and thereafter, he had passed away. He had further contended that the Madurai Corporation is only a customer which is availing the services of the fifth respondent Company. Therefore, there is no employer-employee relationship between the deceased and the Madurai Corporation. Any claim petition can be filed only as against the fifth respondent Company, in which, the deceased was working. In the appeal, the appellant Corporation had raised four substantial questions of law questioning the employer-employee relationship and the quantum of compensation awarded by the Commissioner.

3. Per contra, the learned counsel appearing for the respondents 1 to 4/ claimants had contended that only on the invitation of the Madurai Corporation, the fifth respondent Company had sent their employees for repairing the Air Conditioner. Therefore, though the fifth respondent Company is the immediate employer, the appellant/Madurai Corporation is the principal employer. In such circumstances, the Commissioner was right in invoking Section 12 of Employees Compensation Act, and mulcting the liability upon the principal employer with liberty to the Madurai Corporation



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to recover the same from the immediate employer, namely, the fifth respondent herein.

4. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

5. The primary contention on the part of the learned counsel appearing for the appellant is that, the appellant Corporation is only to be considered as a customer enjoying the services of the fifth respondent Company which is specializing in repairing of the Air Conditioners. Therefore, the entire liability should have been mulcted upon the fifth respondent Company under whom the deceased was working. There is no dispute with regard to the fact that the deceased had passed away, while carrying out repair of the Air Condition units attached to the Madurai Corporation Office. Further, it is clear that only on the invitation of the appellant/Corporation, the fifth respondent Company had sent their employees for repairing the Air Conditioner units within the Madurai Corporation Campus. Therefore, it is clear that though the fifth respondent Company is the immediate employer, the appellant/ Corporation is the Principal employer. There is no illegality or perversity in the order passed by the Commissioner for Workmen's Compensation, Madurai



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invoking Section 12 of the Employees Compensation Act. The Commissioner has also granted liberty to the appellant/ Madurai Corporation to recover the said amount from the immediate employer, namely, the fifth respondent herein, after depositing the compensation amount. In such circumstances, I do not find any merit in the appeal and all the substantial questions of law are answered as against the appellant/Madurai Corporation.

6. Accordingly, this Civil Miscellaneous Appeal stands dismissed. The claimants are permitted to withdraw the balance amount. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

12.06.2024

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

1. The Tribunal for Workmen's Compensation,
Madurai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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