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C.R.P.(NPD)No.4616 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.01.2025

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The Hon'ble Mr.Justice N.Sathish Kumar

C.R.P.(NPD) No.4616 of 2024

and

C.M.P.No.25822 of 2024

M/s. Barath Building Construction (India) Pvt. Ltd.,
rep. by its Managing Director,
Mr.Ananth Vummidi.

... Revision Petitioner

Vs.

V.Bharathi

... Respondent

Prayer:-

Civil Revision Petition filed under Section 115 of CPC against the order passed by the learned Deputy Commissioner of Labour II (A/I)/Commissioner for Workmen Compensation Act, Chennai in I.A.No.279 of 2023 in E.C.No.129 of 2024 dated 29.07.2024.

For Revision Petitioner : Mr.S.Saravanan

For Respondent : Mr.D.Ravichander



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ORDER

This Civil Revision Petition is filed against the order passed by the learned Deputy Commissioner of Labour II (A/I)/Commissioner for Workmen Compensation Act, Chennai in I.A.No.279 of 2023 in E.C.No.129 of 2024 dated 29.07.2024.

2. The case of the revision petitioner in brief is as follows:-

i) The respondent herein is an employee under the revision petitioner. During the course of employment, the respondent sustained injury in an accident that occurred on 12.12.2012, resulting in his permanent disability. Therefore, the respondent filed a Claim Petition in the year 2023. Since the said claim has been entertained beyond the period of 10 years, the revision petitioner has filed the present Revision Petition.

3. The learned counsel appearing for the revision petitioner/employer would primarily contend that the accident occurred in the year 2013, whereas, claim was made after a decade, hence, the Deputy Commissioner of Labour ought not to have entertained the Claim Petition. Secondly, it is contended that immediately after the accident, medical



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treatment has been given to the injured respondent, besides that, the father of

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the respondent also received certain amount as compensation; that thereafter, there was no whisper from the respondent, and from the very conduct of the respondent, would per se indicate that the entire claim amount has been settled. However, the respondent, having remained silent for more than 10 years, all of a sudden, has filed a Claim Petition, which is untenable. Therefore, the learned counsel submits that the order of the Deputy Commissioner of Labour has to be set aside.

4. The learned counsel for the respondent/employee would submit that the order passed by the Deputy Commissioner of Labour requires no interference, as the learned Deputy Commissioner after having satisfied with the reasons assigned for the delay in filing such Claim Petition, has rightly exercised his discretion and condoned the delay. The learned counsel also placed reliance on a decision rendered by the Hon'ble High Court of Gujarat at Ahmedabad in the case of **Maheshbhai Harkishanbhai Belani Vs. Suleman Ishak Dhudha** reported in **2011 SCC Online Guj 7723** in support of his contention that when sufficient cause for excusing the delay is shown, vide discretion is given to the Court to condone



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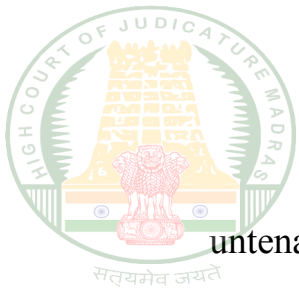
the delay.

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5. Heard the learned counsel appearing for both sides and perused the materials placed on record.

6. It is not in dispute that the respondent/employee sustained injuries in an accident, which had occurred while he was in the course of employment under the revision petitioner/Employer. Similarly, it is an undisputed fact that due to the accident, the respondent suffered permanent disability, as his neck movement got restricted to a particular degree. Though it is the contention of the revision petitioner that the injured was given proper medical treatment and was compensated for such injury, as the father of the respondent has received the certain amount towards compensation on behalf of his son/respondent, the same would not be a bar for the respondent filing the Claim Petition.

6.1 Similarly, the contention of the revision petitioner such claim ought not to have been entertained after a period of 10 years is also



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untenable, for the reason that, as long as there is no dispute with regard to the injury and accident in the course of employment, it cannot be said that no claim would be entertainable at any point of time after lapse of 10 years as per Section 10 of the Employees' Compensation Act. In terms of proviso to Section 10 (1) b of the said Act, the Commissioner is given wide discretion to entertain the claim even beyond the period of 12 years. In this connection, it would be apposite to refer to the relevant excerpt of the decision rendered by the Hon'ble High Court of Gujarat at Ahmedabad *in re "Maheshbhai Harkishanbhai Belani Vs. Suleman Ishak Dhudha"* reported in **2011 SCC Online Guj 7723** which is extracted hereinbelow:-

“What emerges from the aforesaid observations is, as noted in the said decision also, that when sufficient cause for excusing delay is shown, the discretion is given to the court to condone delay and that the discretion has been deliberately conferred on the court so that the judicial power and discretion may be exercised to advance substantial justice. The discretion needs to be exercised in the way in which the judicial power and discretion ought to be exercised upon principles which are well understood and the words "sufficient cause", receiving liberal construction



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so as to advance substantial justice when any inaction or want of bona fide is not imputable.

43. Besides this, it is necessary to note that the act imposes obligation on the employer to make payment of compensation on the date of accident or within reasonable time from the date of accident. The employer who fails to discharge the said obligation would, in view of this court, ordinarily lose the right to oppose, on the ground of delay/limitation, the workman"s application seeking compensation."

6.2 Reverting back to the present case, the Deputy Commissioner of Labour assessed the nature of case and after having satisfied himself that the delay has occurred due to circumstances, beyond the control of the party in seeking compensation, rightly exercised his discretion and condoned the delay. Thus, when the Commissioner of Labour has exercised his discretion properly on full satisfaction, this Court is not inclined to interfere with the order passed by the Deputy Commissioner of Labour in condoning the delay and entertaining the claim.

6.3 That apart, it would not be out of place to mention here that



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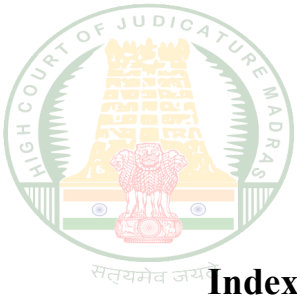
as long as the factum of the accident and injury during the course of employment is not disputed, certainly, the employee (respondent in this case) has to be recouped for the loss. Further, in the light of the ratio decidendi laid down by the Hon'ble High Court of Gujarat, in a decision referred to supra, this Court is of the view that the Commissioner has exercised discretion properly and entertained the claim, by condoning the delay. In fact, Commissioner has protected the right of the employer (revision petitioner) by restricting the interest for the delayed period. In such view of the matter, this Court does find any merits in the revision petition.

7. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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To
The Deputy Commissioner of Labour II
(A/I)/Commissioner for Workmen Compensation Act,
Chennai

N.Sathish Kumar, J.

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