



C.M.A.(MD)No.701 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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Dated : 18.03.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.701 of 2022

and

C.M.P.(MD)No.6171 of 2022

V.Petchiammal

... Appellant

Vs.

1.M.Shanthi

2.M.Manikandan

3.M.Velu

4.M.Maragatham

5.R.Murugan

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 30 of the Workmen Compensation Act, 1923, to set aside the order passed in W.C.No.13 of 2018 dated 22.04.2022, on the file of the Deputy Commissioner of Labour, Madurai.

For Appellant	: Mr.Kalai Selvi
	For Mr.C.M.Arumugam
For Respondents	: No Appearance



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JUDGMENT

Challenging the award passed in W.C.No.13 of 2018 dated 22.04.2022, by the Deputy Commissioner of Labour, Madurai, this Civil Miscellaneous Appeal is filed.

2.For the sake of convenience, the parties are arrayed herein as per the ranking in W.C.No.13 of 2018.

3.The factual matrix of the present case, briefly stated, are as under:-

The first respondent is the building owner in which, the deceased was engaged for construction work. The second respondent is the contractor, for whom the deceased had worked for. The petitioners therein are the legal heirs of the deceased Muthukrishnan. The first respondent building owner is the appellant herein. On 20.03.2016, while the deceased Muthukrishnan was engaged in construction work in the second floor of the building belonging to the first respondent, due to lapse of proper safety measure, the said Muthukrishnan happened to fell down from the upstairs, as the result of which, he sustained serious injuries in his legs and across his body. As the result of which, he died on the spot. Later his body was taken to Government Rajaji Hospital, Madurai, for post mortem. At the time of accident, he was 47 years



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old and he earned Rs.800/- per day as coolie and his monthly income was derived as Rs.20,000/- by the learned Commissioner.

4.Neither any witness was examined nor any document was marked on either side. The learned Commissioner has fixed liability on the first respondent, who is the building owner for whom the construction work has been carried out. An award amount of Rs.5,89,800/- was passed by the learned Commissioner. Challenging the same, the first respondent has laid this Civil Miscellaneous Appeal.

5.The learned counsel appearing for the appellant categorically submitted that the first respondent had never engaged the deceased at any point of time at the construction work. The actual fact is that the first respondent entered into building construction agreement contract with one Muthu and he in turn had let in the said work by way of sub contract with one Murugan, who is the second respondent and it was the second respondent, who engaged the deceased for construction work. Hence, there is no employee employer relationship between the first respondent and the deceased. As the result of which, the learned Commissioner had seriously erred in fastening the entire liability on the first respondent, who had never ever engaged the deceased when there is no



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employee employer relationship between them.

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6.Though the name of the respondents was printed in the cause list, none appeared on behalf of the respondents.

7.Heard the learned counsel on either side and carefully perused the materials available on record.

8.A careful perusal of the order passed by the learned Commissioner would reveal that neither witnesses were examined nor documents were marked on either side before the learned Commissioner. However, the learned Commissioner, on the basis of proviso to Section 12(1) of Workmen's Compensation Act, 1923, concluded that *'notwithstanding the agreement or contract entered into between the principal employer and contractors regarding their liability for payment of compensation under the Act. Section 12(2) of the Workmen's Compensation Act, confers a right on the principal employer, who ought to have been made liable to pay compensation under the provisions to get himself indemnified by the contractor and in such circumstances, both the principal employer and the contractor would be jointly and severally liable to pay compensation'*.



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9.Relying upon the judgment of this Court in the case of ***Superintendent Engineer, Mettur, Thermal Power Station, Mettur v. Veerappan & Others*** reported in ***CDJ 2011 MHC 3460***, the learned Commissioner proceeded to fix the entire liability on the first respondent i.e., the appellant herein.

10.Had the first respondent/appellant herein was diligent in getting absolved from his liability, he would have taken proper steps to let in proper evidence by marking proper document before the learned Commissioner. Having not done so by way of this Appeal, the first respondent/appellant herein has no grounds for raising the plea that there was no employee employer relationship between the deceased and the first respondent/appellant herein. It is needless to state that Section 12(1) of the Workmen's Compensation Act, 1923, has made it clear that *when the work of a party is entrusted to another, principal employer and contractor relationship comes into force. The principal employer is liable to pay compensation, if the contractor fails to pay the compensation and is entitled to be indemnified by the contractor. The principal employer is entitled to recover the amount of compensation paid to the worker from the contractor.* However, in the instant case, the principle employer i.e., first respondent/appellant herein had not taken diligent steps to prove that there



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had been a contract in existence between first respondent/appellant herein and

Muthu, who was not at all impleaded as party in the aforesaid case. Now in the

Appeal stage, the appellant cannot seek to indemnify him by the contractor.

11.In view of the above, I am not inclined to interfere with the order passed by the learned Commissioner. This Civil Miscellaneous Appeal is dismissed accordingly. There shall be no order as to costs.

18.03.2025

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

To

1.The Deputy Commissioner of Labour, Madurai.

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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