



C.R.P.(PD)(MD)No.2861 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2025

CORAM:

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.R.P.(NPD)(MD)No.2861 of 2024
and C.M.P.(MD)No.16366 of 2024

R.R.Thulasi Builders
Represented by its Manager,
Sabeer Ahamed,
Having Office at
No.63, Sakthi Mahal,
Perundurai Road, Erode.

... Petitioner

Vs.

1.Juli Kanna
2.K.Pastin Nelson
3.K.Devi Sri
4.M/s.The Orathur Medical College,
Orathur Medical College,
Orathur, Velakanni.

... Respondents



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WEB COPY PRAYER : Petition filed under Article 227 of the Constitution of India, praying to set aside the order in I.A.No.45 of 2024 in E.C.No.104 of 2021 dated 16.09.2024 on the file of the Commissioner for Employees Compensation, Tiruchirapalli.

For Petitioner : Mr.K.R.Kishore Ram

For Respondents : Mr.P.Ganapathi Subramanian for R1 to R3

No Appearance for R4

ORDER

This Civil Revision Petition has been filed aggrieved by the order dated 16.09.2024 passed by the Commissioner for Employees Compensation, Tiruchirapalli in I.A.No.45 of 2024 in E.C.No.104 of 2021. The said I.A.No.45 of 2024 was filed seeking to set aside the *ex parte* order passed in E.C.No.104 of 2021, dated 20.06.2023, whereby the amount of Rs.13,16,550/- was granted in favour of respondents 1 to 3 towards compensation together with interest at 12%



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per annum and an amount of Rs.5,000/- towards cremation expenditure of the deceased workman. The said application filed by the petitioner was disposed of by passing the order under revision, whereby, the learned Commissioner directed the petitioner to pay the compensation as awarded in E.C.No.104 of 2021.

2. It is contended by the learned counsel for the petitioner that the learned Commissioner has not decided the application filed in I.A.No.45 of 2024 either by rejecting the claim made therein or accepting the claim and further contended that the scope of the said application is either to set aside the *ex parte* order dated 20.06.2023 or to refuse to set aside the *ex parte* order.

3. It is no doubt, the learned Commissioner is expected to decide the said application and absolutely there is no justification for issuing further direction to pay the compensation as awarded in E.C.No.104 of 2021. The learned Commissioner, in all fairness, ought to have decided the said application either way. But the learned Commissioner failed to exercise the power conferred upon him in proper perspective. In the light of the above, the order under revision cannot be sustained.



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4. Having taken into consideration the fact that the claim made by respondents 1 to 3 herein is for payment of compensation for the death of workman, who is the breadwinner of respondents 1 to 3 herein, during the course of his employment and working under the petitioner, which occurred as early as on 05.08.2020 and they are not granted any relief till date including the expenses incurred towards cremation of deceased workman, this Court is inclined to examine the entitlement of the petitioner herein on merits to seek the relief as sought for in I.A.No.45 of 2024. Accordingly, this Court has thoroughly examined the reasons assigned in the affidavit filed in support of the said application.

5. From the perusal of the said application, it is evident that appropriate notice was served on the petitioner herein in E.C.No.104 of 2021 and the matter was entrusted to the legal department of the petitioner. But they failed to take appropriate steps for defending the matter before the learned Commissioner in E.C.No.104 of 2021. Except stating that the connected papers are mingled in the legal office of the petitioner and therefore, they are not able to appear before the



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learned Commissioner to submit their contentions, there is no other reasons assigned in the affidavit filed in support of I.A.No.45 of 2024. From the said affidavit, it is also noticed that the deceased workman is covered by an insurance policy obtained by the petitioner company and therefore, the said insurance company is liable to be made as a party to the proceedings in E.C.No.104 of 2021. Non-impleading the insurance company is not a reason for setting aside the *ex parte* order dated 20.06.2023. Further, the reason assigned in the affidavit stating that the connected papers are mingled in the legal office of the petitioner company also cannot be considered as a sufficient reason to set aside the *ex parte* order that was passed as early as on 20.06.2023. Admittedly, the said application seeking to set aside the *ex parte* order was filed in the month of September 2024 ie., after lapse of more than one year. In the light of the above, this Court is convinced that there is no sufficient reason for setting aside the *ex parte* order dated 20.06.2023.

6. Accordingly, this Court, while setting aside the order under revision, is inclined to dismiss the I.A.No.45 of 2024 on merits and accordingly, the order



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under revision dated 16.09.2024 is set aside and I.A.No.45 of 2024 is also dismissed. As the deceased employee stated to have been covered by an insurance policy, it is always open for the petitioner to pay the compensation to the respondents 1 to 3 and then make a claim for reimbursement from the insurance company with whom, the petitioner stated to have been insured.

7. Accordingly, this Civil Revision Petition as well as I.A.No.45 of 2024 are dismissed. Consequently, the connected miscellaneous petition is also closed. There shall be no order as to costs.

05.02.2025

Neutral Citation: Yes / No
Index : Yes / No
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To

- 1.The Commissioner for Employees Compensation, Tiruchirapalli
- 2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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MUMMINENI SUDHEER KUMAR, J.

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