

THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

C.M.A.No.1493 of 2008

JUDGMENT:-

Heard Sri M. Vidyasagar, learned counsel for the appellant and Sri Mohd. Abdul Rahim, learned counsel for the respondents.

2. The present Civil Miscellaneous Appeal is filed under Section 30 of the Workmen's Compensation Act aggrieved by the Order dated 20.07.2001 in W.C.No.111 of 1996.

3. The Chief Engineer, A.P. Genco-opposite party no.1, who is the appellant herein filed the Appeal stating that he is not liable to pay the compensation to the injured as he is not the principal employer.

4. The Commissioner's Workmen, after considering the evidence of the opposite parties held the appellant herein liable to pay compensation as he was the principal employer of the injured and the accident occurred in the precinct of the 1st respondent. Hence, the 1st respondent alone is liable to pay compensation and the Insurance Company or the other parties are not liable to pay compensation. It is also observed that the opposite no.4 is not alleged as a Contractor under Contract Labour (Regulation and Abolition) Act, 1970 & Andhra Pradesh Rules and the opposite party no.1 cannot take shelter under Section 12(2) of the Workmen's Compensation Act, 1923.

5. This Court relies on the Judgment of the Delhi High Court in "*Shri Krishnan Vs. Jasoda Devi and others*", dated 27.09.2017. The

Judgment deals with Section 12 of the Act which is christened as 'Employees Compensation Act, 1923'. The Employees Compensation Act, 1923 is a piece of social beneficial legislation and its provisions have to be interpreted in a manner as not to deprive the employees of the benefit of the legislation. The object of enacting the Employees Compensation Act, 1923 even as early as 1923 was to ameliorate the hardship of economically poor employees who are exposed to risks in work or occupational hazards by providing a cheaper and quicker machinery for compensating them with pecuniary benefits. Section 12 safeguards the right to compensation when the employer delegates the work to another person. Section 12 is intended to secure the employee the right to claim compensation not only against his immediate employer who, in the Act, is referred to as a contractor, but also against the person who had employed such contractor to execute the work. The Act refers to him as the principal. The main object of enacting Section 12 of the Act is to secure compensation to the employees who have been engaged by the principal employer through the contractor for the work which the principal employer is supposed to carry out by his own employees. The relevant paras of the Judgment stated *supra* are extracted as hereunder:-

“43.8. Section 12 shall apply even in cases of several tiers of employers or petty contractors. It is a matter of common knowledge that contractors in turn employ other petty contractors working under their direction and an employee may be actually employed by one of these aforesaid persons and in such a case, there may be no direct privity of contract

between the principal and the employee in the last analysis. The employee has, for all practical purposes to deal with an immediate employer but when it comes to lodging a legal claim for compensation on account of an accident, he is concerned with the principal employer and not the immediate employer qua the employee.

43.13. Section 12 is an enabling provision for the benefit of the employee(s) and enacted with the clear objective that the employee(s) should not be hampered by technicalities or practical difficulties of deciphering the correct employers. A pragmatic method has thus been devised for fixing the liability of the principal employer and thereby affording speedy relief to the employee for payment of compensation on account of the accident, though the principal has been invested with the right of indemnifying himself from the contractor who may have employed the employee and may have been responsible for immediately taking work from him.

43.14. The words trade or business used in Section 12 of the Act have to be understood in the context in which this Act was enacted. The Act was enacted to provide compensation to the employees suffering during the course of their employment. It was also the purpose of the Act that employees should get speedy remedies and it appears that the intention of enacting the Section 12 of the Act was only to ensure that compensation is paid by the principal expeditiously and if this purpose of the Act and the provision are kept in mind, then the words trade or business may not have the same meaning which it would have, for instance, when used in interpreting a taxing statute.

43.15. The words "trade" or business are used in several statutes like fiscal statutes, taxing statues and rent laws. The meaning ascribed to such words shall always be with reference to the context and with respect to the content of the statute itself, Therefore, the meaning that is ascribed in one statute cannot be taken to interpret the very same words in another statute legislated with altogether a different intention and object. The said words in the fiscal statutes or rent laws

cannot have a similar meaning when employed in any welfare legislation like Employees Compensation Act”.

6. Therefore, as rightly observed by the Commissioner's Workmen, the appellant herein-opposite party no.1 is the principal employer and liable to pay compensation. Moreover, the injured received injuries while discharging duties in the premises of the 1st respondent. The other grounds raised herein are purely disputed facts and it was categorically dealt with by the Commissioner.

7. As such I found no reasons to interfere with the Order dated 20.07.2001 in W.C.No.111 of 1996 passed by the Commissioner for Workmen's Compensation, Cuddapah District, Cuddapah.

8. Hence, the Civil Miscellaneous Appeal is dismissed accordingly. There shall be no Order as to costs.

Miscellaneous Petitions pending, if any, shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 29.07.2022
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