

Cordial Developers Vs. Commissioner for Workmens Compensation

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Court : Kerala

Decided On : Jan-23-2014

Judge : Honourable Mr.Justice K.Vinod Chandran

Appellant : Cordial Developers

Respondent : Commissioner for Workmens Compensation

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT:- THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN THURSDAY,THE23D DAY OF JANUARY20143RD MAGHA, 1935 W.P.(C).No.34340 of 2011 (N)

----- PETITIONER(S):- ----- 1. CORDIAL DEVELOPERS & BUILDERS (P) LIMITED, NEAR K.P.C.C. OFFICE, VELLAYAMBALAM, THIRUVANANTHAPURAM - 695 010, REPRESENTED BY ITS DIRECTOR, KOCHANIYAN UNNITHAN, S/O.R.PARAMESWARAN NAIR, RESIDING AT SIVA SAKTHI, VALIYAVEEDU LANE, VATTIYOORKAVU, THIRUVANANTHAPURAM.

2. CORDIAL COMPANY, "KOUSHTHUBHAM", V/780 (B-7), SREERANGAM LANE, SASTHAMANGALAM (P.O), THIRUVANANTHAPURAM - 695 010, REPRESENTED BY ITS PARTNER, KOCHANIYAN UNNITHAN, S/O.R.PARAMESWARAN NAIR, RESIDING AT SIVA SAKTHI, VALIYAVEEDU LANE, VATTIYOORKAVU, THIRUVANANTHAPURAM. BY ADVS.SRI.P.PARAMESWARAN NAIR SRI.T.SANJAY SMT.REJITHA RAJAN

SRI.JOHN T.PAUL. RESPONDENT(S): ----- 1. THE COMMISSIONER FOR WORKMEN'S COMPENSATION, OFFICE OF THE COMMISSIONER FOR WORKMEN'S COMPENSATION, A.K.TOWER, NEAR VALSALA NURSING HOME, BAKERY JUNCTION, THYCAUD (P.O), THIRUVANANTHAPURAM, PIN - 695 014.

2. NATIONAL INSURANCE COMPANY LIMITED, "PAN AFRICAN PLAZA", 4TH FLOOR, PUTHENCHANTHA, M.G.ROAD, THIRUVANANTHAPURAM - 695 001, REPRESENTED BY ITS SENIOR MANAGER.

3. SRI.NARAYANDAS, JHAWKHALI, JHAWKHALI (P.O.), DHANAGUSARA, DISAETH, 24 PARGANA, WEST BENGAL - 743 503. R1 BY GOVERNMENT PLEADER SMT.K.T.LILLY. R2 BY STANDING COUNSEL SRI.RAJAN P.KALIYATH THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/01/2014, ALONG WITH WP(C).25660/2013-F, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:- W.P.(C).34340 OF 2011N

----- APPENDIX PETITIONER(S)' EXHIBITS:-
----- EXT.P-1 TRUE COPY OF THE CERTIFICATE OF INSURANCE DATED 11/11/2010. EXT.P-2 TRUE COPY OF THE ATTENDANCE REGISTER OF LABOURERS ENGAGED IN THE SITE FOR THE MONTH OF MARCH 2011 EXT.P-3 TRUE COPY OF THE COMMUNICATION ISSUED BY THE 1ST RESPONDENT DATED 09/03/2011. EXT.P-4 TRUE COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT DATED 24/03/2011. EXT.P-5 TRUE COPY OF THE FORWARDING LETTER DATED 01/04/2011 ALONG WITH THE REPORT ON FATAL ACCIDENT AND FORM W (IN RULE 64. EXT.P-6 TRUE COPY OF THE

ORDER

PASSED BY THE 1ST RESPONDENT DATED 25/06/2011. EXT.P-7 TRUE COPY OF THE LETTER SUBMITTED TO THE 1ST RESPONDENT DATED 20/7/2011. EXT.P-8 TRUE COPY OF THE LETTER SUBMITTED TO THE 2ND RESPONDENT DATED 20/7/2011. EXT.P-9 TRUE COPY OF THE SHOW CAUSE NOTICE ISSUED BY THE 1ST RESPONDENT DATED 31/10/2011. RESPONDENTS' EXHIBITS:- ----- NIL. vku/- (true copy) K.Vinod

----- W.P.(C).Nos.34340 of 2011-N &
25660 of 2013-F ----- Dated this, the
23rd day of January, 2014

JUDGMENT

The short facts necessary for the disposal of the above writ petitions can be garnered from the interim order dated 29.11.2013, which is extracted herein below:- "The above writ petitions are filed by the father of a deceased employee and the employer. The employer challenges, in W.P.(C).No.34340 of 2011, the order of the Commissioner for Workmen's Compensation, Thiruvanthapuram, directing him to deposit `8,96,000/-, passed under the Employee's Compensation Act, 1923 (for short "the Act"). The petitioner in W.P.(C).No.25660 of 2013, the father of the deceased employee, is aggrieved by the non-deposit of the amounts and, further, seeks consideration of Exhibit P4 application filed before the Commissioner for Workmen's Compensation, Thiruvananthapuram.

2. In the circumstances of the father having not got a pie till date despite the death of his son on 04.03.2011, the interim order dated 21.12.2011 passed in W.P.(C).No.34340 of 2011 shall stand modified and there shall be a direction to the W.P.(C).Nos.34340 of 2011-N & 25660 of 2013-F - 2 - employer, the petitioner in W.P.(C).No.34340 of 2011, to pay `2,50,000/- (Rupees two lakhs and fifty thousand only) to the petitioner in W.P.(C).No.25660 of 2013 within one month from today. There shall also be a direction to proceed with Exhibit P4 application, in W.P.(C).No.25660 of 2013, filed before the Commissioner for Workmen's Compensation, Thiruvananthapuram. The representatives of the employer, the claimant and the Insurance Company shall appear before the Commissioner on 10.12.2013. Post this matter on 01.01.2014. The Commissioner shall, notwithstanding the pendency of the writ petitions, proceed with the matter in accordance with law. However, the demand of `8,96,000/- made under the impugned order shall be kept in abeyance till 01.01.2014, on condition of the employer paying the amount afore directed . The amount directed by this Court shall be paid through the Commissioner for Workmen's Compensation,

Thiruvananthapuram, and the Commissioner shall ensure the payment to the father of the deceased or shall keep the money in deposit till further orders are made by this Court" 2. It is now submitted by the learned counsel appearing on both sides that the employer has deposited the amount as directed by this Court, by way of Demand Draft, before the W.P.(C).Nos.34340 of 2011-N & 25660 of 2013-F - 3 - Commissioner for Employees' Compensation. In such circumstance, W.P.(C).No.34340 of 2011 filed by the employer is disposed of holding that the order Exhibits P6 and P9 need not be proceeded with, since the amounts as directed by this Court has been deposited before the Commissioner. Any order of compensation made by the Commissioner for Employees' Compensation shall necessarily take into account the amount so deposited before the Commissioner. It is directed that the petitioner in W.P.(C).No.25660 of 2013 shall be entitled to withdraw the amount now deposited before the Commissioner even during the pendency of the proceedings before the Commissioner. W.P.(C).No.25660 of 2013 is disposed of, directing the Commissioner for Employees' Compensation, Thiruvananthapuram to dispose of the application after affording opportunity to both sides to adduce evidence, expeditiously and at any rate, within six months from today. The writ petitions are disposed of as above. No costs. Sd/- K.Vinod Chandran vku/- Judge. (true copy)

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