

(2013) 11 MAD CK 0221

Madras High Court

Case No: C.M.A. No. 2877 of 2006

M. Manickam

APPELLANT

Vs

R. Ponnammal and Others

RESPONDENT

Date of Decision: Nov. 26, 2013**Citation:** (2014) 141 FLR 479 : (2014) 1 LLJ 541**Hon'ble Judges:** S. Vimala, J**Bench:** Single Bench**Final Decision:** Dismissed

Judgement

S. Vimala, J.

The appeal has been filed by the 2nd opposite party (owner of the property/well) in the claim petition. The accident is said to have taken place while the workman attempted to take out the motor from the well and during that attempt, he was pulled into the well and died. The Deputy Commissioner of Labour, Salem, passed an award for a sum of Rs. 2,37,320/- dated 30.06.2006 in favour of the claimants and directed the 5th respondent/1st opposite party (Sekar) and the appellant/2nd opposite party (Manickam), the owner of the well, to pay the compensation jointly and severally. Challenging the award, the 2nd opposite party has filed this appeal.

2. At the time of filing of the appeal, the appellant/2nd opposite party has deposited only a sum of Rs. 1,18,660/-. When the appeal was taken up for hearing, preliminary objection was taken by the respondents in the appeal stating that the mandatory provision of Section 30 of the Employee's Compensation Act (formerly Workmen's Compensation Act), has not been complied with and the appellant has not deposited the entire award amount as ordered by the Deputy Commissioner of Labour. On this ground, it was contended that the appeal has to be dismissed on the preliminary point of non-compliance of Section 30 of the Act.

3. Thereafter, time was given to the appellant to deposit the balance of the award amount. Despite the grant of time, the learned counsel for the appellant submitted

that because of the financial constraint, the appellant is not in a position to deposit the balance award amount and therefore, the Court may pass further orders.

4. As per Section 30 of the Employee's Compensation Act, while filing the appeal, the appellant is expected to append a certificate, by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against. Admittedly, this mandatory provision has not been complied with. Therefore, the Court has no other option except to dismiss the appeal for noncompliance of Section 30 of the Employee's Compensation Act.

4.1. This position is also supported by the decision of this Court in 2013 ACJ 2468 wherein it has been held that payment of compensation amount alone, which did not include the interest and the payment of the same through cheque and not in the mode contemplated u/s 30(1) was, not sufficient compliance of requirement of third proviso to Section 30(1) of the Act, 1923 and as such, the appeal was not maintainable.

4.2. In the case referred above, only interest is not paid. In this case, part of the compensation amount itself has not been paid. Therefore, in view of the clear legal position indicated above, the Civil Miscellaneous Appeal has to be dismissed as not maintainable.

Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.