

(2011) 02 MAD CK 0170

In the Madras High Court

Case No : Writ Petition (MD) No. 888 of 2006

K. Mathivanan

APPELLANT

Vs

The District Collector, The Deputy Commissioner of Labour
and Kalaiselvi

RESPONDENT

Date of Decision : 14-02-2011

Acts Referred:

Revenue Recovery Act, 1890 — Section 5
Workmens Compensation Act, 1923 — Section 31

Citation : (2011) 02 MAD CK 0170

Hon'ble Judges : M. Venugopal, J

Bench : Single Bench

**Advocate : A. Saravanan, for the Appellant; D. Sasikumar, Government
Advocate, for the Respondent**

Judgement

M. Venugopal, J.—The Petitioner has filed the present writ petition seeking a relief of Writ of Mandamus in directing the First

Respondent/District Collector, Coimbatore to initiate the Revenue Recovery Proceedings against the Third Respondent(owner of the lorry) to

collect the amount awarded in W.C. No. 492 of 2003 on the file of the Second Respondent/Deputy Commissioner of Labour, Trichirapalli.

2. The Petitioner filed W.C. No. 492 of 2003 before the Second Respondent/Commissioner of Labour, Trichirapalli, praying for compensation for

the injuries sustained by him in an accident that has taken place on 28.07.2002, during the course of his employment with the Third

Respondent/Employer.

3. After contest, an award dated 15.04.2004, a sum of Rs. 2,04,644/-(Rupees Two Lakhs Four Thousand and Six Hundred and Forty Fore only)

has been awarded as compensation to the Petitioner as against the Third Respondent. The award copy has been communicated to the Third

Respondent/owner of the lorry by the Second Respondent/Deputy Commissioner of Labour, Trichirapalli. Even after receipt of the award copy in

W.C. No. 492 of 2003 dated 15.04.2004, the Third Respondent/owner of the lorry has not preferred any Appeal or taken further proceedings

against the award passed by the Second Respondent. Also, the Third Respondent/owner of the lorry has not taken any steps to deposit the award

amount before the Second Respondent/Deputy Commissioner of Labour, Trichirapalli.

4. It is the case of the Petitioner/claimant that he along with his Advocate from Trichirapalli approach the Third Respondent/owner of the lorry and

personally handed over the award copy in W.C. No. 492 of 2003 dated 15.04.2004 and made a request to deposit the award amount before the

Second Respondent. In paragraph "4" of the affidavit filed by the Petitioner in this writ petition which is among other things mentioned that the

"Third Respondent, her husband and employees threatened the Petitioner and his counsel with dire consequences etc". Therefore, the Petitioner

has been left with no other option returned to Trichirapalli and projected an application before the Second Respondent/ Deputy Commissioner of

Labour, Trichirapalli, praying to take appropriate steps to recover the award amount within the prescribed time. However, the Third Respondent

after receiving the notice has not complied with the award of the Second Respondent.

5. Based on the petition filed by the Petitioner/ claimant the Second Respondent/ Deputy Commissioner of Labour, Trichirapalli, issued a letter

requesting the First Respondent/District Collector, Coimbatore, to recover the award amount from the Third Respondent and to remit it to the

account standing in the name of the Second Respondent at Trichirapalli by means of letter dated 17.11.2004. The First Respondent acknowledged

the letter of the Petitioner and has given a reply as per the proceedings in reference No. OM/4646/2004/E4 dated 04.02.2005, he has taken all

the steps to recover the award amount from the Third Respondent/owner of the lorry through the Tahsildar.

6. Admittedly, nothing tangible transpired for a period of nine months in regard to the realisation of the award amount made in W.C. No. 492 of

2003 dated 15.04.2004. As such the Second Respondent at the instance of the Petitioner has issued another letter to the First Respondent/District

Collector by means of his proceedings No. Aa4/12078/2004 dated 27.09.2005, requesting the First Respondent/District Collector, Tiruchirapalli,

to recover the award amount immediately from the Third Respondent. The said order/proceedings has been communicated to the First

Respondent/District Collector, Coimbatore during the first week of October 2005.

7. The learned Counsel for the Petitioner urges before this Court that the First Respondent/District Collector, Coimbatore, has not taken any

effective and efficacious steps in regard to the recovery of the award amount specified in the award dated 15.04.2004, in W.C. No. 492 of 2003

as per Tamil Nadu Revenue Recovery Act, 1864, through the concerned Tahsildar.

8. Proceeding further, the learned Counsel for the Petitioner/claimants contends that the First Respondent/District Collector, Coimbatore, has the

responsibility besides a duty to recover the award amount from the Third Respondent as per the Tamil Nadu Revenue Recovery Act, 1864.

Furthermore, as against the award dated 15.04.2004, passed in W.C. No. 492 of 2003 no appeal has been preferred by the Third

Respondent/owner of the lorry. It cannot be denied that the Petitioner has been a driver working under the Third Respondent and has not been in a

position to continue his employment in view of the injuries sustained by him in the accident that has taken place on 28.07.2002 at about 05.30 p.m.

9. In view of the fact that the date of accident is on 28.07.2002 and the award passed by the Second Respondent/Deputy commissioner of

Labour, Tiruchirapalli, is on 15.04.2004 and till today the Petitioner is not in a position to realise the fruits of the award that has been passed in his

favour. At this stage, it is not out of place for this Court to pertinently point out that Section 31 of the Workmen's Compensation Act, 1923

speaks of recovery and the same runs as follows:

The Commissioner may recover as an arrear of land-revenue any amount payable by any person under this Act, whether under an agreement for

the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of Section 5 of the

Revenue Recovery Act, 1890(1 of 1890)

10. This Court aptly points out that the Workmen's Compensation Act, 1923 is a

beneficial piece of legislation which has been enacted with a view to compensate the workmen and their dependants in the event of accidents arising during the course of employment.

11. This Court has heard the learned Counsel for the Petitioner and the learned Government Advocate and noticed their contentions.

12. On a careful consideration of the arguments advanced on behalf of the Petitioner and this Court taking note of an important fact that the award

in the incident case on hand in W.C. No. 492 of 2003 has been passed by the Second Respondent on 15.04.2004 and in spite of the fact that the

Second Respondent/Deputy Commissioner of Labour, Trichirapalli, has made a repeated requests to the First Respondent/District Collector to

recover the award amount in question from the Third Respondent/owner of the lorry and in view of the fact that no concrete or viable action has

been taken by the First Respondent in regard to the recovery or realisation of the award amount in W.C. No. 492 of 2003 dated 15.04.2004, this

Court as an Equitable and Fair Relief directs the First Respondent/District Collector, Coimbatore, to initiate the Revenue Recovery proceedings

against the Third Respondent in regard to the realisation of the amount awarded in W.C. No. 492 of 2003 as per the award dated 15.04.2004 as

per the request made by the Second Respondent by means of proceedings No. Aa4/12078/2004 dated 27.09.2005. The First

Respondent/District Collector, Coimbatore, is to complete the exercise of recovering the award amount in W.C. No. 492 of 2005 dated

15.04.2004, within a period of three months from the date of receipt of a copy of this order.

13. Accordingly, with these directions, the writ petition is disposed of leaving the parties to bear their own costs.