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### **EVIDENCE PROVING EMPLOYER-EMPLOYEE RELATIONSHIP**

The Kerala High Court (**HC**), in the case of *Sakkir Hussain*,<sup>1</sup> held that it can exercise jurisdiction over the order of compensation by the Commissioner when there is a lack of evidence to prove the existence of an employer-employee relationship.

#### **A. Brief Facts:**

Binu Madhu (**Binu**), was a general worker with Fathima Constructions, owned by Sakkir Hussain (**Sakkir**). On June 29, 2019, Binu, while drilling a rock from a high place along with his co-workers, fell down and sustained multiple serious injuries.

After a week, he was allegedly discharged from Medical College, Kottayamat on Sakkir's instigation, and was admitted to Medical College Hospital, Theni, where he had undergone a spinal cord surgery. It was also alleged that Sakkir visited Binu at the hospital and paid Rs. 40,000 towards treatment expenses in installments.

Subsequently, Binu filed for an application for compensation alleging that he had sustained injuries during the course of his employment under Sakkir. Subsequently, Sakkir filed a written statement contending that Binu was not a workman under him at any point of time.

According to Sakkir, he was conducting the business of leasing JCB earth movers and was not conducting any construction business at any time. He also claimed that he only employed JCB operators as workers under him. Also, Sakkir denied visiting Binu at the hospital and providing him compensation for his hospital expenses.

Upon hearing the matter, the Commissioner ordered Sakkir to pay Rs. 7 lacs (Approximately) with interest as compensation.

Aggrieved, Sakkir appealed before the HC.

#### **B. HC Judgement & Analysis:**

The HC observed that:

- The Commissioner had, from the oral evidence and documents submitted by Binu, declared that the workman sustained injury in an accident during the course of his employment under Sakkir.<sup>2</sup>

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<sup>1</sup>*Sakkir Hussain vs. Binu Madhu*, MFA (ECC) 18 of 2024 (**Judgement**). A copy of the Judgement can be accessed [here](#).

<sup>2</sup> Paragraph 5 of the Judgement.

- Binu produced two witnesses out of which one did not even know the name of the firm where he was working for and the other failed to recognize the jackhammer's brand held by him.<sup>3</sup>
- The letter (issued by the Tahsildar) which was relied to determine the existence of an employer-employee relationship mentioned that Binu fell on the crushed granite severely injuring himself. The letter also stated that on enquiry with Sakkir, he concurred to have spent about Rs. 3,00,000 for Binu's treatment.<sup>4</sup>
- *"The incident stated [in the letter], does not in any manner correlate with the accident pleaded in the complaint..."*<sup>5</sup> and *"Secondly, the place of occurrence of the accident is also totally different from what is stated in the claim."*<sup>6</sup>
- The letter relied upon did not support Binu's contention regarding place of occurrence, accident, or nature of work. Furthermore, the author of the letter and the documents were not examined. Hence, it can be concluded that the letter did not show existence of an employer-employee relationship.<sup>7</sup>
- In the case of *North East KRTC*,<sup>8</sup> the Supreme Court held that whether there existed an employer-employee relationship is a question of fact, and must be proved with the aid of evidence.
- *"Once the said fact is proved either way, the findings recorded thereon are regarded as findings of facts. The question here is whether the fact has been proven. On consideration of the evidence on record, it has to be concluded that there is absolutely no proof regarding the employer-employee relationship."*<sup>9</sup>
- HC will not be justified in interfering in an appeal unless there is a total lack of evidence, and based on the above judgement, no documents have been produced by Binu to show his employment.<sup>10</sup>

Therefore, the HC allowed the appeal and set aside the order passed by the Commissioner.

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<sup>3</sup> Paragraph 8 of the Judgement.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> *North East KRTC v. Sujatha [AIR OnLine 2018 SC 920]*.

<sup>9</sup> Paragraph 10 of the Judgement.

<sup>10</sup> *Ibid.*