

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.T.SANKARAN
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WA.No.666 of 2015
IN WP(C).31805/2010

AGAINST THE JUDGMENT IN WP(C) 31805/2010 of HIGH COURT OF KERALA
DATED 20-02-2015

APPELLANT/PETITIONER IN WPC:

R.V. MOHAMMED
S/O.SEYDALI HAJI, RAYAMMARAKKARU HOUSE
THAIKKADU VILLAGE, THAIKKADU P.O, GURUVAYOOR
THRISSUR DISTRICT 680 104

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS/RESPONDENTS IN WPC:

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1. SRI.JOHN
S/O.MATHEW, ALAPPAT HOUSE, KODANNOOR P.O.
THRISSUR 680001.
 2. THE COMMISSIONER FOR WORKMEN'S COMPENSATION,
WORKMEN'S COMPENSATION COURT/DEPUTY LABOUR
COMMISSIONER,THRISSUR 680 506.
 3. THE DEPUTY TAHSILDAR(RR)
TALUK OFFICE, CHAVAKKAD - 680 506

BY GOVERNMENT PLEADER SRI.JOBY JOSEPH
BY SRI.T.C.SURESH MENON

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K. T. SANKARAN
&
BABU MATHEW P. JOSEPH, JJ.**

W. A. No.666 of 2015

Dated this the 19th day of March, 2015

JUDGMENT

K. T. Sankaran, J.

Jisson was a workman under the employment of the appellant, R.V.Mohammed. During the course of employment, Jisson met with an accident and died. His father filed W.C.C. No.139 of 1998 before the Commissioner for Workmen's Compensation (Deputy Labour Commissioner), Thrissur. The Commissioner for Workmen's Compensation passed an order dated 21st December, 2002; the operative portion of which reads as follows:

“Since 2nd opposite party is declared ex parte, 1st opposite party as the principal employer and owner of the building he is liable to pay compensation to the applicant. Hence R.V.Mohammed, S/o Seydali Haji, Rayam Marakkaru house, Thaikkadu village 1st opposite party in this case is directed to deposit with this authority an amount of ₹ 2,21,370/- (Rupees Two lakhs twentyone thousand three hundred and

seventy) only together with simple interest at 12% per annum and funeral expense of ₹ 1,000/- from 4.3.98 to the date of deposit within 30 days of receipt of a copy of the said order. It is also ordered that 1st opposite party is directed to recover the amount from 2nd opposite party through legal proceedings on the basis of his contract.”

2. The appellant deposited ₹ 2,21,370/- and ₹ 1,000/- on 26/05/2003. However, he did not pay the balance amount due. Therefore, the Commissioner issued Ext.P3 notice demanding the balance amount of ₹ 1,39,574/- together with interest at 12% on the said sum from 26/05/2003 till date of payment. Ext.P3 notice was challenged by the appellant in W.P.(C) No.31805 of 2010. Learned single Judge of this Court granted a stay. Later, as directed by the court, a sum of ₹ 1,39,574/- was deposited by the appellant in two instalments dated 26/07/2011 and 07/09/2011. However, there was balance amount going by Ext.P3 notice. That was not deposited.

3. In the Writ Petition, the appellant herein raised a contention that interest is claimed on interest. The appellant

also averred in para 9 of the Writ Petition as follows:

“9. It is submitted that the Petitioner is not liable to pay the said amount of Rs.1,40,574/-. In any event on account of financial crisis, the Petitioner is not in a situation to pay such a big amount within 10 days. The Petitioner need at least ten months time for raising the said amount. This Hon'ble Court is the last resort for the Petitioner in this situation. It is therefore just and necessary that this Hon'ble Court may be pleased to grant the Petitioner 10 months' time for settling the said amount.”

4. The learned single Judge rightly held that the contention put forward by the appellant that interest on interest is claimed, is unsustainable. In fact, before the learned single Judge the prayer made by the appellant herein was only to provide him some time to pay the balance amount. Accordingly, the learned single Judge disposed of the Writ Petition directing the appellant herein (writ petitioner) to make deposit of the entire balance amount in four equal monthly instalments, the first of which was directed to be paid on or before 15/3/2015 and subsequent instalments on or before 15th day of the succeeding months. The respondents in the Writ Petition

were directed to keep in abeyance all further coercive steps till the periods stipulated for payment. The learned single Judge also held that if there is any dispute with respect to the computation of amount due for payment, the Commissioner or the authority conferred with the jurisdiction under the Employees Compensation Act, shall take appropriate decision.

5. The judgment of the learned single Judge is under challenge at the instance of the writ petitioner.

6. The learned counsel for the appellant submitted that by the payment of a total sum of ₹ 1,39,574/- in two instalments on 26/7/2011 and 07/09/2011, the liability of the appellant is wiped out. This contention is unsustainable. The appellant deposited a sum of ₹ 2,22,370/- on 26/05/2003. On that date, going by the award, there was some more amount to be paid. That amount was claimed in Ext.P3 notice together with interest on that amount from 26/05/2003 onwards. The appellant deposited only ₹ 1,39,574/- in two instalments on 26/07/2011 and 07/09/2011. The interest

claimed in Ext.P3 notice has not been deposited so far. That is payable by the appellant for which he was granted instalment facility. No ground is made out for interference in the well considered judgment of the learned single Judge.

7. For the aforesaid reasons, we do not find any ground to interfere. Writ Appeal is accordingly dismissed. Since the first instalment payable was on 15/03/2015 as per the judgment of the learned single Judge, we deem it fit and proper to fix the date for the payment of the first instalment as 15/04/2015 and the balance instalments shall be paid on the 15th of the succeeding months. If 15th of any month happens to be a holiday, the particular instalment shall be payable on the next working day.

Sd/-
K. T. SANKARAN
JUDGE

Sd/-
BABU MATHEW P. JOSEPH
JUDGE

kns/-

//TRUE COPY//

P.A. TO JUDGE

