

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.11.2015

Coram:

The Hon'ble Mr.Justice T.RAJA

C.M.A. No. 2733 of 2015

and

M.P.No.1 of 2015

Ravichandran

..

Appellant

Versus

1. Sadik Hussain

2. National Insurance Co.Ltd.,

No.29, Fulla Avenue,

Shenoy Nagar,

Chennai - 30. ...

Respondents

(R1 set exparte before the Tribunal)

Civil Miscellaneous Appeals filed under Section 30(1) of the Workmen's Compensation Act, against the order and decretal order dated 03.10.2015 made in W.C.O.P.No. 42 of 2010 on the file of the the Deputy Commissioner of Labour-II, Chennai.

For Petitioner : Mrs.M.Malar

For Respondent-2: Mr.Krishnamoorthy

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the Workman, to set aside the portion of the award denying the benefit of interest from the date of petition till the date of deposit of award amount.

2. In the present appeal, the Appellant/Workman has filed W.C.O.P.No. 42 of 2010 on the file of the the Deputy Commissioner of Labour-II, Chennai, claiming compensation of Rs.5,00,000/- for the multiple injuries and multiple fractures suffered by him in an accident which had happened on 05.07.2009 at about 03.00 am., during the course of his employment. The first opposite party being the owner of the Share Auto bearing Reg.No.TN-02-V-4024, insured with the second opposite party viz, National Insurance Company Limited, Chennai-30. The learned Deputy Commissioner of Labour-II, passed an award on 03.10.2013, directing the second opposite party to deposit a sum of Rs.77,501/- by way of Demand Draft in favour of the Deputy Commissioner of Labour-II, Chennai-6, within a period of 30 days from the date of receipt of the copy of the award, failing which a sum of Rs.77,501/- together with interest at the rate of 12% per annum after 30 days from the date of accident till the date

of deposit of award amount will be recovered from the second opposite party.

3. The learned counsel appearing for the appellant would submit that the learned Deputy Commissioner of Labour-II considering the injuries suffered by the Workman arrived at 15% permanent disability against the permanent disability of 25% assessed by the Doctor. Accordingly, the learned Deputy Commissioner of Labour-II has awarded only a sum of Rs.77,501/-. So far as the quantum of compensation is concerned, no appeal is filed by the Workman. However, the learned counsel for the appellant confined his arguments only to the extent of non-award of interest by the learned Tribunal at the rate of 12% p.a. from the date of accident excluding 30 days from the date of accident under Section 4(A) of the Workmen's Compensation Act. In the order impugned while awarding Rs.77,501/- as compensation, the learned Deputy Commissioner of Labour-II has committed a mistake in directing the Insurance Company to deposit the award amount within 30 days from the date of receipt of copy of the award failing which interest at the rate of 12% p.a after 30 days from the date of accident 5.7.2008 till the date of deposit will be recovered. From the award it is made clear that only in the event of failure to deposit the award amount, 12% interest would be recovered after 30 days from the date of accident till the date of deposit of the award amount. As a matter of fact, compensation amount has to be paid within 30 days from the date of accident with interest. In the present case, the learned Deputy Commissioner of Labour-II, working as Authority under the Workmen Compensation Act, has committed a serious flaw.

4. This Court is able to see two things in favour of the petitioner/Workman. Firstly, the learned Deputy Commissioner of Labour-II has committed serious error in directing the second respondent to deposit the award amount of Rs.77,501/- within 30 days from the date of receipt of copy of the award and only in the event of failure to deposit the award amount, 12% interest would be recovered after 30 days from the date of accident till the date of deposit of the award amount for the multiple injuries and multiple fractures suffered by the Workman during the course of his employment. Secondly, as a matter of right, the learned Deputy Commissioner of Labour-II ought to have held that the said amount will accrue interest after 30 days from the date of accident till the date of deposit of award amount. On the other hand he has held that the said amount shall be deposited within 30 days from the date of receipt of copy of the award failing which 12% interest should be recovered after 30 days from the date of accident till the date of deposit. Therefore, there is a serious infirmity in the impugned order passed by the learned Deputy Commissioner of Labour-II.

5. Since it is well settled legal principle that the award has to be passed along with payment of interest at the rate of 12% after 30 days from the date of accident till the date of deposit under Section 4(A) of the Workmen's Compensation Act, the learned Deputy Commissioner has committed a serious mistake. Therefore, the appeal is to be allowed only on the limited portion of interest, which I fix at the rate of 12% after 30 days from the date of accident till the date of deposit. Considering the fact that the entire award amount of Rs.77,501/- has been deposited within 30 days as directed by this Court, the second respondent is directed to deposit the award amount of Rs.77,501/- together with interest at the rate of 12% after 30 days from the date of accident till the date of deposit, to the credit of W.C.O.P.No.42 of 2010 on the file of the the Deputy Commissioner of Labour-II, Chennai, within a period of four weeks from the date of receipt of this judgment and on such deposit, the appellant/Workman is permitted to move appropriate application before the Deputy Commissioner of Labour-II, Chennai, to withdraw the said amount. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Deputy Commissioner of Labour-II
Chennai

kjl(co)
aa04/01/2016

C.M.A.No.2733 of 2015

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