

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 18.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T. MATHIVANAN

C.M.A.No.1645 of 2016

N.Nagooran

...Appellant

vs.

1.V.Krishnamoorthy

2.National Insurance Co., Ltd.,
No.751, Anna Salai, 3rd Floor,
Chennai - 2.

... Respondents

Prayer: Civil Miscellaneous Appeal is filed Under Section 30 of Workmen Compensation Act, 1923 against the Decree and Judgment dated 22.11.2013 and made in W.C.No.561 of 2012 on the file of the Commissioner for Workmen's Compensation-2 (Deputy Commissioner of Labour-2) Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondent No.2 : Mr. S. Vadivel

JUDGMENT

Questioning the calculation of interest, the claimant in the claim petition in W.C.No.561 of 2012, has preferred this Appeal Under Section 30 of Workmen Compensation Act, 1923.

2. This Civil Miscellaneous Appeal is admitted on the following substantial questions of law.

"Has not the learned Commissioner committed error in not granting interest at 12% on award amount in terms of Section 4-A(3)(a) of Employees Compensation Act, 1923?"

3. As it is manifested from the records that the appellant/claimant had moved the Deputy Commissioner of Labour-II for Workmen's Compensation, Chennai, claiming a sum of Rs.10,00,000/- for the injuries sustained by him in a road traffic accident said to have taken place on 29.08.2012, involving a lorry bearing Regn. No.TNH-5955 during the course of his employment under the first respondent / employer. While the first respondent/employer remained exparte, the second

respondent/Insurance company alone had contested the claim by filing their counter statement.

4. The learned Deputy Commissioner of Labour-II for Workmen's Compensation, on appreciation of evidences of both oral and documentary, has proceeded to award a sum of Rs.2,63,524/- as against the claim of Rs.10,00,000/-. Based on the claim of the claimant, his age factor as well as his monthly income of Rs.6368/-, the learned Deputy Commissioner of Labour-II for Workmen's Compensation has also assessed the loss of earning capacity at 35%. However, according to Mr.K.Varadha Kamaraj, learned counsel for the appellant, while passing the award on 22.11.2013, the learned Deputy Commissioner of Labour-II for Workmen's Compensation, had failed to grant interest at 12% p.a., to the award amount 30 days after the date of accident. Instead of that, the learned Deputy Commissioner of Labour-II for Workmen's Compensation, had observed in his award stating that if the award amount of Rs.2,65,003/- is not deposited by way of Demand Draft drawn in the name of the learned Deputy Commissioner of Labour-II for Workmen's Compensation, Chennai -6, within a period of 30 days, in the light of decision of the Apex Court in Pratap Narain Singh Deo v. Srinivas Sabata and another, 1976 (1) SCC 289 and Kerala State Electricity Board v. Valsala, K., 2000 ACJ 5 (SC), the interest at 12% p.a., shall be calculated 30 days after the accident i.e., from 29.08.2012.

5. Having been aggrieved by the observation of the learned Deputy Commissioner of Labour-II for Workmen's Compensation, the claimant has approached this Court only on the ground of calculation of interest. Mr.K.Varadha Kamaraj, the learned counsel, has drawn the attention of this Court to the decision of the Hon'ble Division Bench of this Court in N. Ganesan Vs . 1.Thilagavathi 2. United India Insurance Co., Ltd., Motor Third Party Claim Cell, No.38, Anna salai, Chennai-2, reported in 2010 (2) TN MAC 80 (DB).

6. In this case, the Hon'ble Division Bench of this Court at para -27 has observed as under :

i. The word "falls due" occurring under Section 4-A of the Workmen's Compensation Act, 1923 in the light of the ratio laid down in the Larger Bench decision of the Hon'ble Supreme Court of India reported in Pratap Narain Singh Deo v. Srinivas Sabata and another, 1976 (1) SCC 289 and Kerala State Electricity Board v. Valsala, K., 2000 ACJ 5 (SC), means that interest for compensation amount would accrue 30 days after the date of the accident and not from the date of quantification/ orders

passed by the Commissioner for Workmen's Compensation.

ii. The decisions rendered by the Single Bench of this Court in the decisions reported in Marimuthammal @ Marimuthu and Another v. R.P.P. Construction (P) Ltd., Chennai and others, 2007 (2) TN MAC 98: 2007 (5) MLJ 1059; A. Chairmen v. A. Thirumeni & another, 2008 (1) TN MAC 38 had laid down the correct proposition in consonance with the ratio laid down by the Larger Bench of the Hon'ble Supreme Court of India in the above cited decisions.

7. It is significant to note here that while defining the word "falls due" the Division Bench has observed that the phraseology "falls due" means that interest for compensation amount would accrue 30 days after the date of accident and not from the date of order passed by the learned Deputy Commissioner of Labour-II for Workmen's Compensation. It is thus made clear from the above observation that the interest for compensation at 12% p.a., shall have to be calculated 30 days after the date of accident and not from the date of orders. Accordingly, the substantial questions of law formulated in this Appeal is answered and the Appeal is allowed. There is no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gv

To

1. The Commissioner for Workmen's Compensation-2
(Deputy Commissioner of Labour-2) Chennai.

1 cc to Mr.K.varadhakamaraj, Advocate, sr.47224

C.M.A.No.1645 of 2016

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