

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 9.8.2016

CORAM

THE HON'BLE JUSTICE T. MATHIVANAN

CIVIL MISCELLANEOUS APPEAL No.1375 of 2001
and
M.P.No.1 of 2011

1. Lakshmi,
2. L.Nadhiya (minor)
3. L.Devi (minor) ... Appellants/ Applicants
minor applicants 2 & 3
and rep by M&N.F.L.Lakshmi
vs

1. Mr. Anjaya,
No.4, Pensioners Lane,
Second Street,
Chennai 600 021.
2. The New India Assurance Company Ltd.,
Motor Third Party Claims Cell,
No.46, Moore Street,
Chennai 600 001
... Respondents/
Opposite Parties

Prayer

Civil Miscellaneous Appeal is filed under Section 30 of Workmen's Compensation Act against the order , dated 4.9.2000 passed in W.C.No.230 of 1999, by the Commissioner for Workmen's Compensation-I Chennai.

For Petitioner-Mr.A.Shanmugaraj
For Respondents (2)
R1-D/w -Mr.S.Manohar

JUDGMENT

This memorandum of Civil Miscellaneous Appeal is directed against the award, dated 4.9.2000 and made in Claim Petition in W.C.No.230 of 1999, on the file of the Commissioner for Workmen's Compensation, Chennai.

2. 2. The appellants herein are the claimants in their petition in W.C.No.230 of 1999, whereas the first respondent is the employer and the second respondent is the Insurance Company.

3. Heard Mr.A.Shanmugaraj, learned counsel appearing for the appellants and Mr. S.Manohar, learned counsel appearing for the second respondent. Notice to the first respondent has been dispensed with.

4. The claimants are the legal representatives of the deceased Lakshmiah, who was working as an auto driver under the first respondent.

5. It is alleged that on 9.3.1988 at about 7.00 a.m. while he was continuously driving the auto bearing Registration No.TN-01-K 6393 he had died at 7.00 a.m. due to sudden heart attack during the course of his employment under the first respondent. The deceased Lakshmiah was aged about 50 years at the time of his death. Therefore, claiming a total sum of Rs.3 lakhs, the appellants had filed their claim petition before the Assistant Commissioner for Workmen's Compensation, Chennai.

6. The said claim petition was resisted by the first opposite party denying the relationship of employer and employee.

7. According to the first respondent, the deceased Lakshmiah was not his employee and he had also denied the relationship of employer and employee. According to the first respondent, he was the owner/driver of the Auto Registration No.TN-01-K 6393 and that he was not in the habit of giving his auto on rent to anybody. He has also contended that on 8.3.1998 one Mr.Pitchai Reddi had approached him and asked his auto only on the night hours and therefore, he gave his auto to the said Mr.Pitchai Reddi on the night of 8.3.1998. In turn, the said Lakshmiah had received the said auto from the said Mr.Pitchai Reddi, but the first respondent did not know about this incident.

8. The second respondent being the Insurance company in which the auto bearing Registration No.TN-01-K 6393 was insured has contended that the deceased Lakshmiah was not the employee of the first respondent and since the first respondent had denied the relationship of employee and employer, the second respondent being the insurance company is not at all liable to pay any compensation.

9. On appreciation of the evidence both oral and documentary, the learned Assistant Commissioner, Workmen's Compensation, Chennai passed an award of Rs.1,35,560/- directing the second respondent insurance company to deposit the said sum within thirty days from the date of receipt of a copy of the order, failing which the second respondent shall have to pay interest at the rate of 12 per cent annum for the date of the

petition i.e. from 21.9.1999 till the date of deposit.

10. The claimants having not been satisfied with the direction of the learned Commissioner, workmen's Compensation, Chennai as against the second respondent Insurance Company to add interest at 12% per annum from the date of petition, the claimants have preferred this Appeal.

11. It is pertinent to note that the learned Assistant Commissioner, Workmen's Compensation, Chennai had specifically directed the second respondent-insurance company to pay interest at the rate of 12 per cent on the award amount from the date of the filing of the claim petition, if there was failure on their part to deposit the award amount within thirty days from the date of the passing of the award.

12. This Civil Miscellaneous Appeal came to be admitted by this Court on 26.11.2001 on the following substantial question of law:

"Whether the Commissioner for Workmen's Compensation ought not to have awarded interest at the rate of 12% per annum from the date of accident under Section 4A(3) of the W.C. Act, when the award was passed on merit?"

13. In a Division Bench Judgment of this Court 'viz' N.Ganesan Vs Thilagavathi (C.M.A.No.823 of 2001 etc, dated 28.4.2010) the decisions of this Court reported in 2007 5 MLJ 1059 and 2008 (1) and TN MACT 38 have been referred to, wherein a learned single Judge of this Court after making a specific reference to the Larger Bench decision of the Apex Court has held that interest on compensation is payable within thirty days after the date of the accident, in which the workman sustained injuries resulting in death. In the concluding paragraph (paragraph No.27), the Division Bench of this Court has held as hereunder:

" 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 1976(1) SCC 289 in Pratap Narain Singh Deo v. Srinivas Sabata HYPERLINK "https://indiankanoon.org/doc/1640530/" and another and 2000 ACJ page 5(SC) Kerala State Electricity Board HYPERLINK "https://indiankanoon.org/doc/797272/" HYPERLINK "https://indiankanoon.org/doc/797272/" vs. Valsala.K, 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. '

14. Therefore, it is clear that the claimants are entitled to get interest at the rate of 12 per cent per annum only

thirty days after the date of the accident and not from the date of filing of their claim petition.

15. With this observation, this Civil Miscellaneous Appeal is allowed. However, there will be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

- 1.The Commissioner for Wornen's Compensation I
Chennai-06
2. The New India Assurance Company Ltd.,
Motor Third Party Claims Cell,
No.46, Moore Street,
Chennai 600 001
- 3.The Section officer VR Section High Court Madras

+1 cc to Mr.A.Shanmugaraj Advocate sr 45482

+1 cc to Mr.S.Manohar Advocate sr 45276

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CMA No.1375 of 2001

sr(co)

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