

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2016

CORAM :

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

CMA.No.1587 of 2001

Vivekanandan.

... Appellant/Appellant

Vs.

1.Managing Director
Tamil Nadu Minerals Ltd.,
No.31, Kamarajar Salai,
Chennai-5.

2.The New India Assurance Co. Ltd.,
No.46, Moore Street,
Chennai-1.

...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of Workmen Compensation Act, 1923 against the order dated 04.07.2000 made in WC.No.190 of 1998 by the Commissioner for Workmen's Compensation - I, Chennai - 600 006.

For appellant : Mr.A.Shanmugaraj.

For respondents : M/s.A.L.Gandhimathi for R2.

Notice Served for R1.No Appearance

JUDGMENT

The Civil Miscellaneous Appeal is filed against the order dated 04.07.2000 made in WC.No.190 of 1998 on the file of the Commissioner for Workmen's Compensation - I, Chennai.

2. The learned counsel for the appellant/claimant mainly contended that the Tribunal awarded compensation of Rs.2,19,040/-, directing the second respondent to pay the compensation amount within thirty days from the date of receipt of a copy of this order, failing which the award amount carries 12% interest from the date of filing of petition, till the date of deposit. Aggrieved against the said order of the Tribunal, the claimant is before this Court.

3. The learned counsel for the claimants would mainly contended that the trial Court without any application of mind ought to have awarded compensation of Rs.5,00,000/- by

considering the disability and loss of earning capacity, the trial Court ought to have awarded 12% interest from the date of accident, the trial Court without considering the above aspects passed the award and the learned counsel prays to set aside the order of the trial Court and to allow the appeal.

4. The learned counsel for the second respondent would mainly contended that the trial Court after appreciating the entire facts and circumstances allowed the petition and there is no valid ground has been raised to interfere with the order of the trial Court and prays for dismissal of the appeal.

5. In this case, the trial Court fixed the quantum of disability as 95% and awarded Rs.2,19,040/- and directed the second respondent to deposit the said amount within thirty days from the date of receipt of a copy of its order, failing which the award amount carries 12% interest from the date of filing of the petition till the date of deposit.

6. The trial Court after considering the loss of disability at 95% and adopted the multiplier method as contemplated under the schedule of the Act and concluded the compensation, this Court finds no reason to interfere with the award passed by the Tribunal fixing the compensation to the claimant herein. In this case, it is useful to refer Section 4(A) of the Workmen Compensation Act :-

4(A). Compensation to be paid when due and penalty for default.- (1) Compensation under section 4 shall be paid as soon as it falls due.

(2) In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the Commissioner or made to the workman, as the case may be, without prejudice to the right of the workman to make any further claim.

(3) Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner shall-

(a) direct that the employer shall, in addition to the amount of the arrears, pay simple interest thereon at the rate of twelve per cent per annum or at such higher rate not exceeding the maximum of the lending rates of any scheduled bank as may be specified by the Central Government, by notification in the Official Gazette, on the amount due; and

(b) if, in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears, and interest

thereon pay a further sum not exceeding fifty per cent of such amount by way of penalty:

Provided that an order for the payment of penalty shall not be passed under clause (b) without giving a reasonable opportunity to the employer to show cause why it should not be passed.

7. It is further useful to extract the judgment of Division Bench of this Court reported in N.Ganesan Vs. Tmt. Thilagavathi and another, in C.M.A.Nos.823 of 2001 and etc., batch at paragraph No.27, has held as follows:-

"27. In the result, the reference is answered as follows:-

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 Honble Supreme Court of India reported in 1976(1) SCC 289 in Pratapp Narain Singh Deo v. Srinivas Sabata and another and 2000 ACJ page 5(SC) Kerala State Electricity Board 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 Workmens Compensation.

ii. The decisions rendered by the Single Bench of this Court in the decisions reported in (2007)5 MLJ 1059 : 2007 (2) TN MAC page 98 Marimuthammal @ Marimuthu and Another v- R.P.P.Construction (P) Ltd., Chennai and others, 2008 (1) TN MAC page 38 - A.Chairmen v- A.Thirumeni & Another, 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.

iii. The Registry is directed to list these appeals for final disposal before the concerned Portfolio Judge."

8. The above said judgment cited on the side of the appellant is squarely applicable to the facts of the case. The second respondent/insurance company is liable to pay compensation within thirty days from the date of receipt of the order, failing which to pay 12% interest from the date of the accident, till the date of payment is made. The order of the Tribunal directing the second respondent to pay the amount within thirty days from the date of the receipt of copy of the order is liable to be set aside and the same is hereby set aside.

9. In the result, the civil miscellaneous appeal is partly allowed by directing the second respondent/insurance company is directed to pay interest at the rate of 12%p.a. for the amount due after the expiry of thirty days from the date of the accident i.e, 22.11.1997, till the date of depositing the entire amount, in other respects the award passed by the Tribunal remains unaltered. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

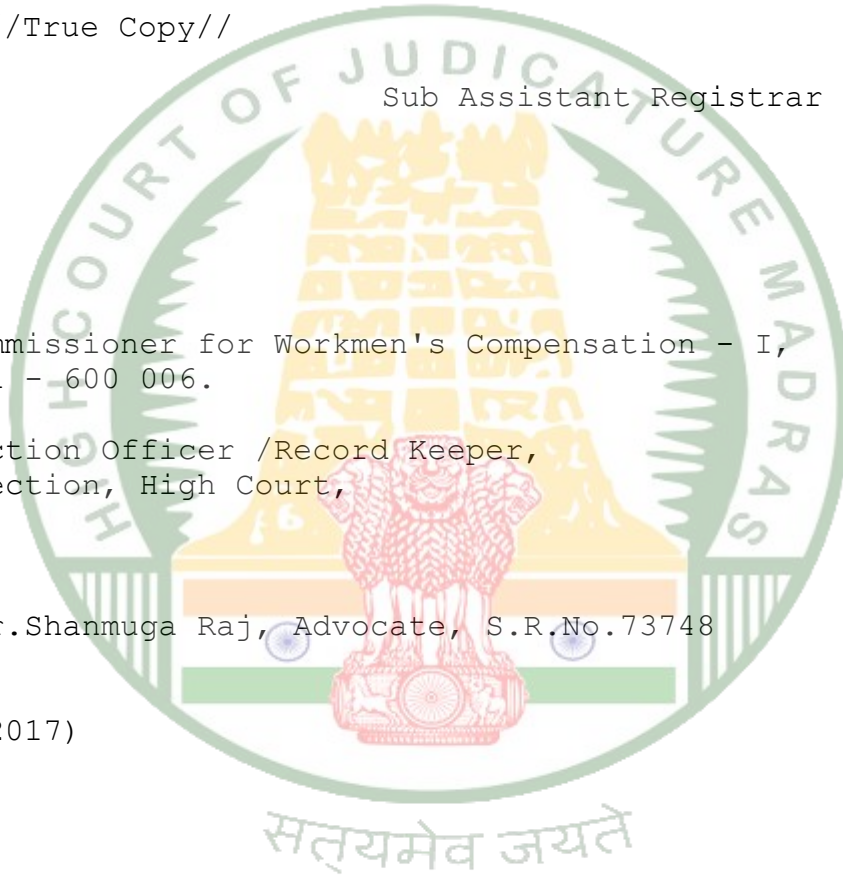
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To

1. The Commissioner for Workmen's Compensation - I,
Chennai - 600 006.
2. The Section Officer /Record Keeper,
V.R. Section, High Court,
Madras.

+1cc to Mr.Shanmuga Raj, Advocate, S.R.No.73748

NRJK(CO)
RS(21/02/2017)



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