



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2016

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) No.19025 of 2016

Mukkaiyan

... Petitioner

-vs-

1.The Commissioner for Workmen's Compensation,
(Deputy Commissioner of Labour),
Trichy.

2.Sivakumar

3.The Manager,
Cholamandalam
M/s.General Insurance Company Ltd.,
1st Floor Meena Agencies,
D.No.2661, South Street,
Thanjavur.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to disburse 50% of the award amount deposited by the 3rd respondent to the credit of W.C.No.129/2008 on the file of the 1st respondent.

For Petitioner : Mr.G.Karnan

For R - 1 : Mr.V.Pandi
Government Advocate

For RR - 2 & 3 : No appearance

O R D E R

This Writ Petition has been filed for the issuance of a writ of mandamus, directing the first respondent to disburse the remaining 50% of the award amount deposited by the third respondent/Insurance company to the credit of W.C.No.129 of 2008 on the file of the first respondent.

<https://hcservices.ecourts.gov.in/hcservices/>
2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate, who takes notice for the



first respondent. By consent the writ petition itself is taken up for final disposal at the admission stage.

3. The petitioner herein suffered an accident while being employed as a load man under the second respondent. He filed a claim petition in W.C.No.129 of 2008, in respect of the injury sustained. The first respondent awarded a compensation of Rs.3,10,003/-. Challenging the same, the third respondent has filed an appeal in CMA(MD)No.777 of 2010 on the ground that the disability of 60%, assessed by the doctor, is excessive and that the disability taken by the first respondent at 57% is also erroneous. After consideration of the submissions, this Court disposed of CMA(MD) No.777 of 2010 by the order dated 18.04.2012 by fixing the percentage of disability at 50% and awarded a compensation of Rs.2,82,336/.

4. As the petitioner has withdrawn 50% of the deposited amount already, remaining 50% was permitted to be withdrawn by this Court. Therefore, the petitioner has approached the first respondent to disburse the remaining amount by filing a memo dated 25.06.2012. But, the first respondent has sought for a clarification with respect to the merits of the matter from the Government Advocate.

5. This Court, while passing the order in CMA(MD)No.777 of 2010 has calculated the compensation by adopting the following formula:

$$"60/100 \times 4000 \times 235.28 \times 50/100 = Rs.2,82,336/-".$$

6. The first respondent has sought for a clarification by the proceedings dated 05.06.2013, in which, a query has been raised as to the factor adopted by this Court as 235.28. It is specifically pointed out that when the age of the claimant has been taken as 26, there is no factor beyond 228.54, as per the Workmen's Compensation Act, 1923.

7. This query is with respect to the subject matter which ought to have been raised before this Court, before passing of the order. No such contention has been raised before this Court. After the Court passing the order, it is not within the jurisdiction of the first respondent to raise those issues on merits. The factor adopted and the factor which ought to have been adopted, does not make much difference. This kind of queries raised, only would lead to multiplicity of proceedings and further delay in rendering justice.

8. Under such circumstances, the first respondent is directed to pay the remaining amount forthwith.
<https://hccservicesetools.gov.in/tc/services/>



9.The Writ Petition is ordered accordingly. No costs.

Sd/-

Assistant Registrar(Record)

/True Copy/

Sub Assistant Registrar

mj

To

The Commissioner for Workmen's Compensation,
(Deputy Commissioner of Labour),
Trichy.

+1cc to Mr.G.Karnan Advocate Sr.No. 59034
+1cc to Spl.Government Pleader Sr.No. 59355

JAM/22.11.16/CK/3p-4c

W.P (MD) No.19025 of 2016

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