

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.07.2017
CORAM
THE HONOURABLE MR. JUSTICE R. SUBRAMANIAN
C.M.A.No.2020 of 2017

V.Srinivasan

...Appellant/claimant

Vs.

1. M/S. Lakshmi Timber Trading Company
No.27, North Wall Road,
Chennai - 79.
2. The United India Insurance Co.Ltd.,
No.38, Anna Salai,
Chennai - 2.

...Respondents/Respondents

Prayer: This appeal is filed Under Section 30 of the Workmen's Compensation Act, 1923 against the Award made in W.C.Case No.59/2000 dated 21.03.2001 on the file of the learned (Deputy Commissioner of Labour,) Commissioner for Workmen's Compensation - I, Chennai.

For Appellant : M/s.Anand & Surya

For Respondents: Mr.N.Vijayaraghavan for R2

JUDGMENT

1. Mr.N.Vijayaraghavan, learned counsel appears for the 2nd respondent/Insurance Company.

2. By consent of both the counsel, the appeal itself is taken up for hearing. Considering the fact that the accident took place on 27.07.1998 and the Award of the Commissioner for Workmen's Compensation is dated 21.03.2001.

3. The Claimant has filed this appeal seeking enhancement of the compensation. The claimant had suffered certain injuries in the accident that took place, during the course of his employment. Though the doctors have assessed the permanent disability at 60%, the Tribunal has taken the income at Rs.2,000/- per month and applying the relevant factor and the

schedule to the Workmen's Compensation Act, has awarded the compensation of Rs.1,59,386/-.

4. The nature of injuries suffered by the petitioner is a compound fracture in the right leg. Therefore, according to the learned counsel, the Tribunal has erred in fixing the functional disability at 60%. According to him, it should have been fixed at 100%.

5. The learned counsel appearing for the 2nd respondent/Insurance Company would contend that the Tribunal was right in fixing the monthly income at Rs.2,000/- (Rupees Two Thousand only) and further submit that the functional disability would be 80%, considering the nature of injuries.

6. Therefore, the functional disability fixed at 60% by the Tribunal is modified as 80% and the compensation is worked out on the basis of the functional disability at 80% as follows:

Age	22 YEARS
Factor	Rs.22.37
Workmen	Driver
Wages Fixed	Rs.2,000/-
Disability	60%
Loss of Earning Capacity	80%
Computation	- 2,000/- Rs.2,12,515/-
*80/100*221.37*60/100	

However, the learned counsel for the Insurance Company would contend that the interest has to be granted only from the date of condonation of delay i.e., 14.02.2017. It is seen that the appeal was presented before this Court even in the year, 2003, with the delay of 91 days. Unfortunately, it has taken nearly 14 years for the delay to be condoned. The appellant/claimant cannot be blamed for the delay. Therefore, the interest will run from the date of accident till date of payment.

7. In fine, the appeal is partly allowed. The compensation payable by the second respondent/ Insurance Company is fixed at Rs.2,12,515/- (Rupees Two Lakhs Twelve Thousand Five Hundred And Fifteen Only) with interest @ 12% from the date of accident till date of payment. The interest will apply only to the enhanced portion of the Award. The Insurance Company is given three

months time to deposit the enhanced compensation along with the interest and on such deposit, the appellant/claimant is entitled to withdraw the same.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

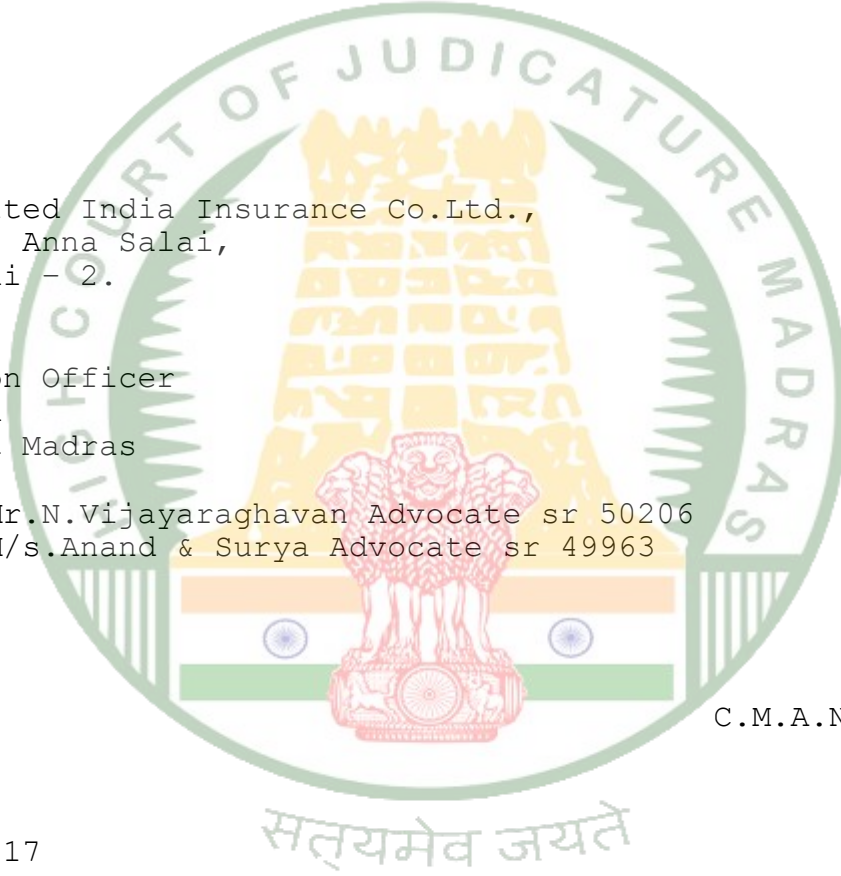
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To

1. The United India Insurance Co.Ltd.,
No.38, Anna Salai,
Chennai - 2.

copy to
The Section Officer
VR Section
High Court Madras

+1 cc to Mr.N.Vijayaraghavan Advocate sr 50206
+1 cc to M/s.Anand & Surya Advocate sr 49963



C.M.A.No.2020/2017

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