IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 10.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.42 of 2017
and
CMP.No.410 of 2017

A.Selvaraj .. Appellant

versus

1. The Management of Best Cost India Ltd.,
No.16, Poonamallee High Road,
Velappan Chavady, Chennai-77.

2. Mr.Vasudevan,
The Contractor, Best Cost India Ltd.,
No.16, Poonamallee High Road,
Velappan Chavady, Chennai-77 .. Respondents

Appeal filed under Section 30 of the Employee's Compensation Act, 1923 against the order passed in E.C.No.333 of 2012 dated 12.01.2016 on the file of Commissioner for Employee Compensation (Deputy Commissioner of Labour-2) Teynampet, Chennai-6.

For appellant : Mr.R.Jaikumar

J U D G M E N T

The appellant, who is an employee/foundry operator of the first respondent, filed a petition for compensation in E.C.No.333 of 2012, against the respondents.

2. While awarding the compensation, the Deputy Commissioner of Labour has ordered that the amount of compensation of Rs.1,35,911/- (ordered on 12.01.2016) shall be deposited by way of demand draft, within a period of 30 days from the date of receipt of a order copy, to the credit of Deputy Commissioner of Labour-II, Chennai -600 006; failing which the compensation shall carry interest @ 12% per annum on the expiry of 30 days from the date of accident i.e. 23.08.2011. This order is under challenge in the Civil Miscellaneous Appeal.

3. The learned counsel for the appellant would point out that the order passed by the Deputy Commissioner of Labour is against the provisions of Section 4-A (3) of the Employee's Compensation Act, 1923 and as per the the settled decision of the Hon'ble Supreme Court in Oriental Insurance Co. Ltd. Vs. Siby George and others reported in 2012-III-LLJ-609 (SC), the employer shall be liable to pay the compensation if personal injury is caused to a workman by accident arising out of and in course of his employment and the relevant date for determination of such compensation is the date of accident.

4. In normal circumstances, this Court would have issued notice to the respondents. But, in this case notice is dispensed with, as the issue is on the question of law which is also settled and therefore notice is not necessary.

5. At this juncture, it is necessary to extract Section 4-A (iii) and the same is extracted hereunder:

> "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 [employee], as the case may be, without prejudice to the right of the [employee] 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 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."

5. As per the decision of the Hon'ble Supreme Court cited supra, the employer is liable to pay compensation if personal injury is caused to a workman by accident arising out of and in course of employment and when it falls due is the subject matter of decision. The relevant date for determination of such compensation is the date of accident.

6. The learned counsel for the appellant has relied upon the Judgment of this Court in P.Rajan Vs. Chennai Petroleum Corporation rep. by the Chief Manager (Personnel), Manali, Chennai and others reported in 2012-II-LLJ-735 (Mad) wherein the question with regard to the issue when the interest falls due has been determined by this Court, in which it is held that the interest on compensation amount is payable on the expiry of 30 days from the date of accident, as per Section 4-A(3) of Workmen's Compensation Act, 1923. Therefore, it is clear that the order passed by the Deputy Commissioner of Labour-2 has to be modified.

7. Accordingly, the operative portion of the order dated 12.01.2016 alone is modified, directing the first respondent to pay compensation of Rs. 1,35,911/- along with interest @ 12% per annum from the expiry of thirty days from the date of accident i.e. on the expiry of 30 days from 23.08.2011, and the interest shall be payable from 23.09.2011, till the date of deposit.

8. This Civil Miscellaneous Appeal is ordered accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. Commissioner for Employee Compensation (Deputy Commissioner of Labour-2) Teynampet, Chennai-6

2. The Section Officer, VR Section,
High Court, Madras.

+1cc to Mr.T. Fenn Walter Associates, Advocate, S.R.No.2568

vsn(CO)
md(20/02/2017)

C.M.A. No.42 of 2017