

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.M.A.No.637 of 2017

M.Palani

... Appellant/Applicant

Vs.

1.M/s.Route Logistics India Pvt. Ltd.,
No.4, Jaffar Syrang Street,
George Town, Chennai - 600 001.

2.The New India Assurance Co. Ltd.,
No.45, Moore Street, 5th Floor,
Chennai - 600 001.

... Respondents/Opposite party

Appeal filed under Section 30 of the Workmen Compensation Act against the order in W.C.No.42 of 2011 dated 14.11.2012 passed by the Commissioner for Workmen Compensation and Deputy Commissioner of Labour, Chennai.

For Appellant : Ms.R.Janagi

For Respondents: Mr.G.Udayashankar (R2)

J U D G M E N T

Challenging the Award passed in W.C.No.42 of 2011 on the file of the Commissioner for Workmen Compensation and Deputy Commissioner of Labour, Chennai, the claimant has filed the above Appeal for enhancement of compensation.

2.It is the case of the appellant that on 19.04.2010, at about 03.15 hours, while he was driving a Trailer Lorry bearing Registration No.TN 04 P 3408 belonging to the 1st respondent along the Ennore Express Road, he suddenly lost his control and the Trailer Lorry dashed against the on-coming another Trailer Lorry, which was coming from South to North direction and turned towards Eastern side and thereby caused the accident, as a result of which the appellant sustained injuries. The appellant was admitted in the Christian Medical College, Vellore as in-patient from 20.04.2010 to 25.04.2010 and he was also taking treatment as out-patient in the said hospital. The appellant suffered 45% permanent disability. The Lorry driven by the appellant was insured with the 2nd respondent. According to the appellant, the accident had occurred only during the course of employment and he was working as a Driver of the Trailer Lorry under the 1st respondent. In these circumstances, the appellant

filed a claim petition before the Deputy Commissioner of Labour, claiming compensation for the injuries sustained by him in the course of the employment.

3. Before the Deputy Commissioner of Labour, the 1st respondent remained exparte. The 2nd respondent, Insurance Company filed their counter and contested the matter. Before the Deputy Commissioner of Labour, the appellant/claimant has not produced any document to establish that he was employed with the 1st respondent and also with regard to his monthly earning. However, the Deputy Commissioner of Labour fixed the monthly income of the claimant at Rs.4,000/- as per the Workmen Compensation Act. The Deputy Commissioner also fixed the age of the claimant at 25 and awarded a total compensation of Rs.2,34,193/- for 40% permanent disability sustained by him. Not satisfied with the Award passed by the Deputy Commissioner of Labour, the claimant has filed the Appeal for enhancement of compensation.

4. The learned counsel appearing for the appellant submitted that the Deputy Commissioner should have taken into consideration the Dearness Allowance of Rs.1,980/-, which the appellant is entitled under the Minimum Wages Act. Further, the learned counsel submitted that the Deputy Commissioner should have fixed the monthly income of the claimant at Rs.5,966/- (i.e.) Rs.3,986/- towards monthly salary and Rs.1,980/- towards Dearness Allowance. However, the Deputy Commissioner had fixed the monthly income of the claimant at Rs.4,000/- as per Workmen Compensation Act.

5. Since the claimant has filed the claim petition only under the Workmen Compensation, the income should be fixed as per the provisions of the Workmen Compensation Act, which was rightly fixed by the Deputy Commissioner of Labour. That apart, the claimant has not placed any document in support of his contention before the Deputy Commissioner of Labour. In the absence of any evidence with regard to the monthly income of the claimant, the Deputy Commissioner has rightly fixed the monthly income of the claimant at Rs.4,000/- under the Workmen Compensation Act.

6. I do not find any error or irregularity in the order passed by the Deputy Commissioner of Labour. That apart, I find no ground much less any substantial question of law to interfere with the order passed by the Deputy Commissioner of Labour. The appeal is liable to be dismissed. Accordingly, the Civil Miscellaneous Appeal is dismissed.

7. It is brought to the notice of this Court by the learned counsel for the 2nd respondent that the 2nd respondent had deposited the entire Award amount to the credit of W.C.No.42 of

2011. The appellant/claimant is permitted to withdraw the amount deposited by the 2nd respondent laying to the credit of W.C.No.42 of 2011. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

va

To

1.The Deputy Commissioner of Labour, Chennai.

+1cc to Mr.G.Udayashankar, Advocate in sr.no.75109

C.M.A.No.637 of 2017

GJII(CO)
NR 10/11/2017



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