IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 10-11-2017

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.899 OF 2014

S.Natarajan ...Appellant

-vs-

1.SRM Development Ltd.

2.United India Insurance Company Ltd.,
A5 & A6, II Floor, II Floor,
No.27, Appasamy Towers,
Sir Thiyagaraya Road,
Near Old Nagesh Theatre,
T.Nagar, Chennai-600 017. ...Respondents

Appeal against the order, dated 26.10.2011, passed in W.C.O.P.No.226 of 2010 on the file of Deputy Commissioner of Labour-II- cum- Commissioner for Workmen's Compensation-II, Chennai.

For appellant : Mr.R.Terry Chellaraja
For respondent 2 : Mr.J.Michael Visuvasam

JUDGMENT

Claimant is the appellant before this Court. He filed a claim petition before the authority for workmen's compensation for the accident, which took place on 05.12.2009. The claimant was working under the first respondent as a mason on the date of accident. While he was doing the work, he had a fall from the steps, which resulted in injuries to him, thereby disabling him to work for ever. The second respondent insurance company has issued a policy, covering the liability of the first respondent. The authority has found that the relationship of employer and employee between the injured and the first respondent has been proved and, since the first respondent is insured with the second respondent, the second respondent insurance company is liable to pay compensation and, accordingly, awarded compensation of Rs.95,880/- in favour of the claimant. The authority has further directed the second respondent insurance company to deposit the amount within 30 days from the date of receipt of a copy of the order and failing which the claimants are entitled to interest at 12% per annum.

2. The challenge made in this appeal by the claimant/appellant is two fold; the first being, that the authority below has failed to fix the loss of earning capacity of the injured at cent per cent, and, the second, not awarding interest from the date of the accident.

3. Coming to the first point i.e., the authority below has failed to fix the loss of earning capacity of the injured at cent per cent, it is to be stated that the authority below, after analysing the evidence adduced by the claimant, both oral and documentary, has fixed the disability at 25%, which, in my opinion, cannot be faulted with. On the second aspect of not awarding interest, as per Section 4-A of the Workmen's Compensation Act, in short, "the Act", the claimant is entitled to interest from 31st day of the accident at the rate of 12% per annum, and this issue is well settled by the Hon'ble Supreme Court in Pratap Narain Singh Deo v. Shrinivas Sabata and another, 1976 (1) SCC 289, which is subsequently followed by a Division Bench of this Court in a batch of cases in C.M.A.No.823 of 2001 (N.Ganesan v. Thilagavathi and another) reported in 2010 (2) TN MAC 80 (DB).

4. It is well settled by a Larger Bench of the Hon'ble Supreme Court in Pratap Narain Singh Deo's case, cited supra, that as per Section 4-A, payment of interest is a statutory obligation and the claimant is entitled to receive interest from 31st day of the accident. Further, the Hon'ble Supreme Court, in L.R.Ferror Alloys Ltd. v. Mahavir Mahto and Another, 2001 ACJ 645, has clearly held that liability to pay interest is part and parcel of legal liability to pay compensation upon default of payment within one month.

5. Section 4-A of the Act mandates that payment of interest falls due from 31st day of the accident at the rate of 12% per annum. Therefore, a duty is cast upon the insurance company to show that there is an exclusion clause in the terms of contract between them and the insured. In the absence of any exclusion clause, it shall be deemed that the insurance company is liable to pay compensation, which includes interest also. The interest part of the compensation cannot be segregated and it cannot also be contended that they are liable to pay only principal and not interest.

6. As far as this appeal is concerned, it is preferred by the claimant and not the insurance company or the employer. Payment of interest is a dispute between the insurer and the insured. They have to work out their remedy in the manner known to law. The issue herein is within a narrow sphere of Section 4-A of the Act i.e., whether the claim is entitled to interest at the rate of 12% per annum from the date it falls due or not.

Therefore, I hold that the appellant / claimant is entitled to interest as per Section 4-A of the Act and it shall be paid by the insurance company. Accordingly, the second respondent insurance company is directed to deposit the amount within a period of four weeks from the date of receipt of a copy of this order.

7. Civil Miscellaneous Appeal is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

dixit

To

The Deputy Commissioner of Labour-cum-
Commissioner for Workmen's Compensation-II,
Chennai.

Copy to: The Section Officer, Vr Section,
High Court, Madras.

+ 1 cc to MR. J. Michael Visuvasam, Advocate Sr.79759
+ 1 cc to MR. M. Malar, Advocate Sr.79852

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RJ(CO)
EU(03/04/2018)