

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 07-11-2017

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1589 OF 2006

1.M.Gowri

2.M.Santhiya (Minor)

3.M.Ramya (Minor)

Appellants 2 & 3 are represented by
mother and natural friend M.Gowri

4.S.Saraswathi

... Appellants

-vs-

1. Mr.P.Panneerselvam

2. United India Insurance Co.Ltd.,
No.38, Anna Salai,
Chennai-600 002.

...Respondents

Appeal against the order, dated 18.07.2005, passed in
W.C.No.84 of 2005 on the file of Deputy Commissioner of Labour-
I- cum- Commissioner for Workmen's Compensation-I,
Chennai-600 006.

For appellants : Mr.A.Shanmugaraj

For respondent 2 : Mr.C.Paranthaman

JUDGMENT

Claimants are the appellants before this Court. Legal heirs of the deceased employee filed a claim petition before the authority for workmen's compensation for the accident, which took place on 11.01.2004. The deceased employee was working under the first respondent on the date of accident. 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 deceased and the first respondent has been proved and, since the vehicle of the first respondent was insured with the second respondent, the second respondent insurance company is liable to pay compensation and finally awarded compensation of Rs.3,97,508/-

in favour of the claimants. 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. Challenging the award in respect of not awarding interest from the date of the accident, this appeal is filed by the claimants.

2. According to the appellants, as per Section 4-A of the Workmen's Compensation Act, in short, "the Act", they are entitled to interest from 31st day of the accident at the rate of 12% per annum. 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).

3. 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.

4. 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 be contended that they are liable to pay only principal and not interest.

5. As far as this appeal is concerned, it is preferred by the claimants 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 restrict my finding that the claim is entitled for interest as per Section 4-A of the Act and, as awarded by the authority, 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.

6. Appeal is allowed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dixit

To

1. The Deputy Commissioner for Labour-I-cum-Commissioner for Workmen's Compensation-I, Chennai.
2. The Section Officer, V.R.Section, High Court, Chennai-104 (2 Copies)

+1cc to Mr.A.Shanmugaraj, Advocate, S.R.No.79120

+1cc to Mr.C.Paranthaman, Advocate, S.R.No.78746

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RJ(CO)
CS/11/01/18

सत्यमेव जयते

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