

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2017

CORAM :

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

C.M.A.No. 2964 of 2006

1. K.Prabavathy
2. K.Gajendran
3.K.Yuvarani ... Appellants

Vs.

The Commissioner,
Corporation of Chennai,
Chennai - 600 003. ... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 30 of Workmen's Compensation Act, 1923, against the order dated 30.12.2004 passed in W.C.No.52/2002 by the Deputy Commissioner of Labour-I (Commissioner for Workmen's Compensation - I), Chennai 600 006 which was received by the Appellant on 31.03.2006.

For Appellants : Mr.A.Shanmugaraj
For Respondent : M/s. V.Udhaya Kumar
S.Arokia Samy
for sole respondent

सत्यमेव जयते

O R D E R

The claimants are the appellants before this Court. On the death of the sole bread winner of the family, namely, G.Kasigan, they made a claim under Workmen's Compensation Act, against the respondent Corporation of Chennai.

2. According to the appellants, the husband and father of the appellants was employed as male worker under the respondent Corporation and was receiving a sum of Rs.1,657/- as monthly wages. On 20.08.1992, during the course of employment, the wall collapsed and fell over the husband and father of the appellants and he died on

the spot. Thereafter, the appellants sought appointment under compassionate ground. The respondent Corporation did not give any compassionate appointment. The writ petition filed by the second appellant in W.P.No.15119 of 2000 claiming compassionate appointment was also dismissed by this Court on 13.01.2003. Since the respondent failed to pay compensation, the appellants filed a claim petition before the Deputy Commissioner (Labour) 1, Chennai, on 24.09.2003.

3. The respondent contended that on the death of employee, all the statutory dues were paid and also the first appellant is getting family pension from the respondent. Therefore, the respondent is not liable to pay the compensation.

4. Considering the oral and documentary evidence, the Tribunal awarded a sum of Rs.78,824/- as compensation and directed the respondent Corporation to deposit the same within 30 days from the date of receipt of a copy of the said order, failing which, interest could be awarded. Aggrieved over non grant of interest from the date of accident, the appellants are before this Court.

5. The learned counsel appearing for the respondent corporation would contend that the accident had taken place on 20.08.1992 and the claim petition came to be filed only on 24.09.2003 after long delay of 12 years. Therefore, the appellants are not entitled to interest. Further, all eligible terminal benefits were disbursed to the appellants.

6. The learned counsel appearing for the appellants, on reply, contended that the delay of 12 years in filing claim petition was condoned by the Tribunal and therefore the appellants are entitled to interest as per section 4-A of the Workmen's Compensation Act, from the date of accident.

7. Heard the rival contentions.

8. It is well settled that the claimants are entitled to interest from the date of accident and not from the date of order of the Tribunal. The Hon'ble Supreme Court in PRATAP NARAIN SINGH DEO VS. SHRINIVAS SABATA AND ANOTHER [1976 A.C.K.141] has held that the word "falls due" as specified under Section 4-A of the Employee's Compensation Act, 1923, denotes the date of accident and not the date of order passed by the authority. Hence, this Court is of the view that the appellants / claimants are entitled to interest, after

the expiry of 30 days, from the date of accident. But, the peculiar circumstances in the present case is that whether the appellants are entitled to interest for the period of delay also has to be considered, as rightly contended by the learned counsel for the respondent. Had the appellants laid the claim petition in time, the money would have been paid to the appellants then and there. The condoning delay in filing the claim petition will not give premium to the appellants to claim interest for the default committed by them. In so far as the appellants are concerned they were paid all the statutory dues. However, they have chosen to file a claim petition belatedly and the award amount was also disbursed to them. Therefore, they are not entitled to interest for the delay committed by them.

9. The limitation period for filing the claim petition is 2 years. The accident had taken place on 20.09.1992. Therefore, they are entitled to file a claim petition till 20.08.1994. But, the appellants have filed the claim petition on 24.09.2003. Therefore, for the period between 20.08.1994 and 24.09.2003, the appellants are not entitled to any interest. Hence, this Court is of the considered view that the appellants are entitled to interest 24.09.2003 till the date of deposit at the rate of 12% per annum.

10. With the above observation, this Civil Miscellaneous Appeal is disposed of. No costs.

Sd/-

Assistant Registrar (Ccc)

//True Copy//सत्यमेव जयते

Sub Assistant Registrar

bsm/bkn

To

The Commissioner,
Corporation of Chennai,
Chennai - 600 003.

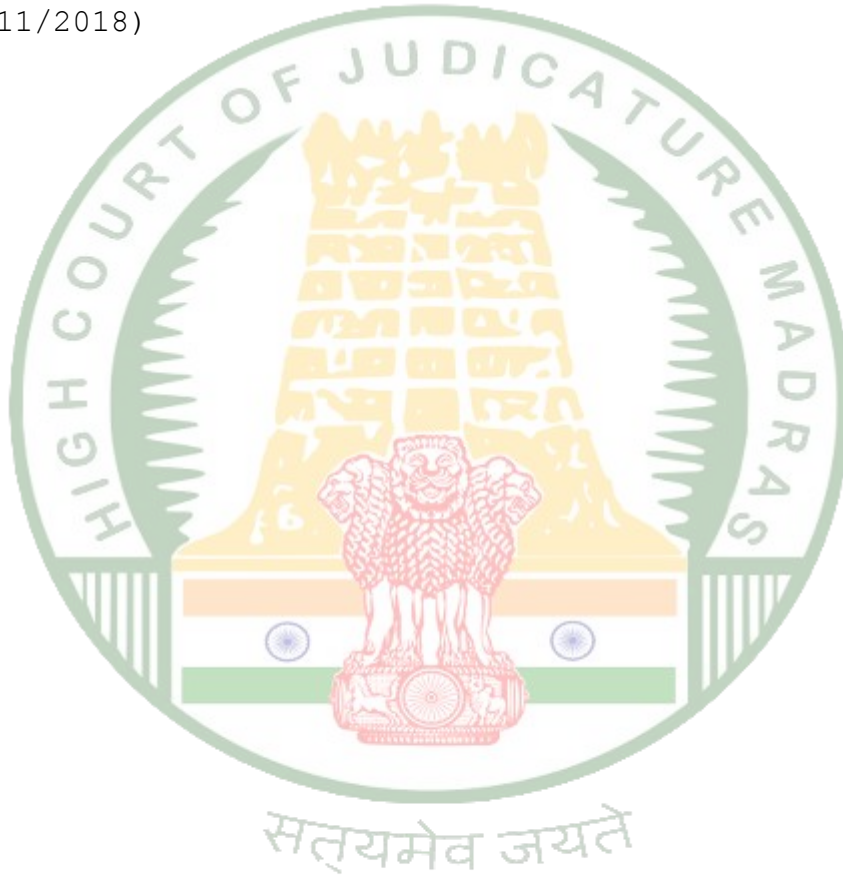
2. The Deputy commissioner of Labour I,
(Commissioner of Workmen's compensation -I)
Chennai 6.

3. The section officer,
VR Section,
High court
Madras (2 COPIES)

+1cc to Mr.V.Udhya Kumar , Advocate SR.No. 73425
+1cc to Mr. A.Shanmugaraj, Advocate SR.No. 73776

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ASK(12/11/2018)



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