



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1369 of 2016

1. Annakili
2. Arunadevi

... Appellants/Claimant No.1 & 2

Vs.

1. A.Gopalakrishnan

2. United India Insurance Company Limited,
50, North Uthuman Street,
T.Nagar, Chennai

... Respondents 1 & 2/
Respondents 1 & 2

3. Muthuvairasamy
(Cause title accepted vide order dated 16.04.2015
made in M.P.(MD).No.1 of 2014 in C.M.A.(MD).SR.10957 of 2015)

4. Thangavairasamy

5. Kannan

6. Jothimurugan

7. Pathirakali

... Respondents 3 to 7 /
legal heirs of third claimant

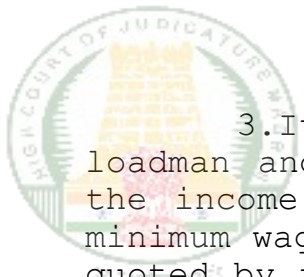
Prayer: Appeal filed under Section 30 of the Employees Compensation Act, 1923 against the judgment and decree dated 30.07.2013, made in W.C.No.1 of 2009 on the file of the Deputy Commissioner of Labour, Tirunelveli.

For Appellant : Mr.V.B.Sundhareshwar
For R-2 : Mr.B.Rajesh Saravanan
For R-3 to R.7 : No Appearance

JUDGMENT

Heard the learned counsel on either side.

2.The legal heirs of the deceased workman have filed this appeal seeking enhancement of the compensation awarded by the Deputy Commissioner of Labour, Tirunelveli. The claimant marked Ex.P.5 Certificate issued by the first respondent, showing that the deceased was earning a sum of Rs.6,000/- per month, but the employer while being examined on the side of the respondents informed the authority that he was paying sum of Rs.150/- per day. Therefore, the monthly income of the deceased was taken as Rs.4,000/-.



3.It is not in dispute that the employee was working as loadman and also worked as collection agent for his employer. If the income earned by the deceased is computed on the basis of the minimum wages fixed by the Government from time to time, the figures quoted by the claimants ought to have been accepted. Therefore, the compensation payable to the appellant will have to be re-worked. Taking monthly income at Rs.6,000/- and awarding a sum of Rs.15,000/- towards funeral expenses, the compensation payable to the claimants will come to Rs.4,74,270/-.

4.This appeal has been admitted on the substantial question of law as to whether the authority was correct in fixing monthly income of the deceased without following the Minimum Wages Act. This Court answers the substantial question of law in favour of the appellants. Therefore, the award dated 30.07.2013 made in W.C.No.1of 2009 on the file of the Deputy Commissioner of Labours, Tirunelveli. is modified, as indicated above.

5.The second respondent insurance company is directed to deposit the modified award amount of Rs.4,74,270/- with the interest at the rate of 12% from after 30 days from the date of accident till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit the claimants are entitled to withdraw the entire amount by filing proper application before the Deputy Commissioner of Labour, Tirunelveli, less the amount already withdrawn by them, if any.

6.Accordingly, this Civil Miscellaneous Petition is allowed. No costs.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Deputy Commissioner of Labour,
Thirunelveli.

Copy to

The Section Officer, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.B.RAJESH SARAIVANAN, ADVOCATE IN SR No. 88860

KMI

TE/KKR/SAR-3 : 25/04/2018 : 2P/5C

<https://hcservices.ecourts.gov.in/hcservices/>

C.M.A. (MD) Nos.1369 of 2016
22.11.2017