



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.12.2017

WEB COPY

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.946 of 2016

and

M.P. (MD) No.8502 of 2016

The Manager
Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
TNCSC Office,
Aravinth Hospital Road,
Madurai - 20.

... Appellant/Respondent

Vs.

G.Gurunathan

... Respondent/Claimant

Prayer: This Civil Miscellaneous Appeal is filed under Section 30 (1) of Workmen's Compensation Act, against the order dated 15.07.2015 passed by the Commissioner Workmen's Compensation Act/Deputy Commissioner of Labour, Madurai in W.C.No.122 of 2012.

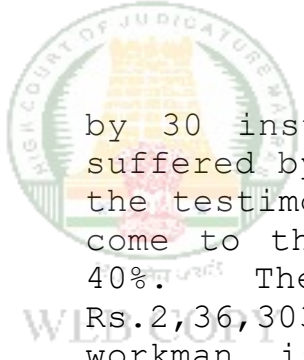
For Appellant	: Mr.R.Vijayakumar
For Respondent	: Mr.T.Ravichandran

JUDGMENT

Heard the learned counsel on either side.

2.The Principal employer viz., Tamil Nadu Civil Supplies Corporation has filed this appeal questioning the award made in W.C.No.122 of 2012 on the file of the Deputy Commissioner of Labour for Workmen Compensation, Madurai. The respondent is the injured workman. He was working as a loadman under the appellant Corporation. His status was however that of a contract employee. On 01.02.2012 during the loading and unloading work, a paddy bag fell on the workman. He suffered fracture in the right thigh. Since the appellant is a principal employer and the accident occurred during the course of employment, the appellant is bound to pay compensation to the workman.

3.The question is regarding quantum. The workman was employed only in a seasonal establishment. Therefore, he could not have worked on all the 30 days. The Tribunal rightly took the minimum wages statutorily fixed. The same however came to be multiplied



by 30 instead of 26. Similarly, the percentage of disability suffered by the workman was taken as 47%. On a careful perusal of the testimony of the doctor, who issued Ex.P5 certificate, one can come to the conclusion that the disability can only be fixed at 40%. Therefore, the loss of income will be quantified at Rs.2,36,303/-. As per the amendment made vide Act 45 of 2009, the workman is entitled to reimbursement of the actual medical expenditure incurred by him. Even though no evidence has been adduced in this regard, this Court has come to the conclusion that the respondent would have incurred atleast Rs.14,000/- towards medical expenses. Therefore, the total compensation payable to the respondent can be quantified at Rs.2,50,000/-. This Court has admitted the appeal by framing substantial question of law as to whether the computation made by the Deputy Commissioner of Labour, Madurai is in accordance with their statutory scheme. Answering the said question of law in favour of the appellant, the award dated 15.07.2015 passed by the Commissioner Workmen's Compensation Act/Deputy Commissioner of Labour, Madurai in W.C.No.122 of 2012 is modified. On other respects, namely interest, it is confirmed. It is submitted that already entire award amount has been deposited by the appellant. Therefore, the respondent/workman is entitled to withdraw from the amount deposited by the appellant. The appellant is permitted to withdraw the balance amount, if any.

4.This civil miscellaneous appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner Workmen's Compensation Act/
Deputy Commissioner of Labour, Madurai.

2. The Record Keeper,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+ 1 cc TO Mr.R.Vijayakumar , Advocate in SR No. 90771
+ 1 cc TO Mr.T.Ravichandran , Advocate in SR No. 91006

tsg/Arul

AE/JC/SAR3/19.04.2018/2P/6C

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