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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No. 460 of 2013

and

M.P.(MD)No.1 of 2013

K.Kannan

... Appellant-Applicant

Vs.

The Managing Director,
The Tamil Nadu State Transport Corporation
Dindigul Division,
Bye-pass Road,
Dindigul.

... Respondent/Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, against the award dated 09.01.2008 and sent to the Appellant on 21.02.2008 and made in W.C.No.285 of 2006 on the file of the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour) Act, Dindigul, for enhancement of the award.

For Appellant

:Mr.J.Lawrance

For Respondent

:Mr.A.Jeyaraman

Standing Counsel for TNSTC

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/claimant against the award, dated 09.01.2008 made in W.C.No.285 of 2006 on the file of the Commissioner for Workmen's Compensation Act, Dindigul,

2. It is a case of injury sustained by the injured/claimant in the accident, which took place on 08.09.2004 at about 10.00 a.m..

3. It is the case of the claimant before the Commissioner that while he was standing on a trolley for the purpose of painting, he fell down on the floor and sustained injuries. The accident occurred during the course of employment.

4. The claimant filed an application in W.C.No.285 of 2006 on the file of the Commissioner for Workmen's Compensation Act, Dindigul.

5. Before the Commissioner, the petitioner/Claimant examined <https://hdservices.courts.mca.gov.in/hdservices> as P.Ws.1 and 2 and marked twelve documents as Ex.P.1 to Ex.P.12. On the side of the respondents, one witness was examined as R.W.1 and no document was marked.



6. The Commissioner, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also appreciating the evidence on record, held that the claimant was a workman under the respondent and he sustained injuries in an accident occurred during the course of his employment and awarded compensation of Rs.1,59,230/-.

7. Against which, the appellant/claimant has filed this present appeal seeking enhancement of compensation.

8. The learned counsel for the appellant/claimant would submit that the victim sustained injuries and he was treated by P.W.2-Doctor. The Doctor had issued the Disability Certificate under Ex.A9 assessing the disability at 50%. But, the Commissioner fixed the disability only at 35% and calculated the compensation as Rs.1,59,230/- and therefore, the same is to be enhanced.

9. Per contra, the learned counsel for the respondent submitted that based on the evidence only, the Commissioner had fixed the disability at 35% and awarded a just and reasonable compensation and the same does not require interference at the hands of this Court.

10. Heard the submissions made on either side and perused the materials available on record.

11. The Disability Certificate issued by the P.W.2 Doctor shows that the appellant/claimant sustained 50% disability and therefore, the same should be taken into consideration for arriving at a compensation. If 50% disability is taken, the compensation would be Rs.2,27,472/- (Rs.4000 X 60/100 X 189.56 X 50/100).

12. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Commissioner from Rs.1,59,230/- (Rupees One Lakh Fifty Nine Thousand Two Hundred and Thirty Only) to a sum of Rs.2,27,472/- (Rupees Two Lakhs Twenty Seven Thousand Four Hundred and Seventy Two Only) along with interest at the rate of 12% per annum from the date of petition till date of realisation and proportionate costs;

(ii) The respondent/Transport Corporation is directed to deposit the entire award amount with proportionate interests and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment and costs. On deposit being made, the appellant/claimant is permitted to withdraw the entire award amount with accrued interests and costs without filing any formal application



No Costs.
closed.

Consequently, connected Miscellaneous Petition is

Sd/-

Assistant Registrar (CS-III)

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/True Copy/

Sub Assistant Registrar

To,

1.The Commissioner for Workmen's Compensation Act,Dindigul.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,Madurai.

+1cc to M/S.J.LAWRANCE, Advocate SR.No.69350

pm

MAS/JC/SAR1:05.09.2017:3P-4C

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and

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