

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.1098 of 2018

1. Rani @ Sidheswari,

2. Minor Janani

3. Minor Swarnamugi

(Minors 2 and 3 are represented
by through next friend and guardian mother
1st appellant) .. Appellants

Vs.

1. Sumathi

(Notice for R1 may be dispensed with
for the time being)

2. United India Insurance Company Limited,
No.2, Dr.Sankaran Road, Namakkal. .. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 30 of
the Workmen's Compensation Act, 1923 to set aside the order made
in W.C.No.253 of 2008 on the file of the Workmen's Compensation
Commissioner cum Deputy Commissioner of Labour, Salem dated
17.06.2014 in respect of rate of interest and for other
conventional damages.

For Appellants : Mr.C.Kulanthaivel

For Respondents : Mr.J.Chandran [For R2]

JUDGMENT

The appellants herein are the claimants/petitioners in
W.C.No.253 of 2008 on the file of the Workmen's Compensation
Commissioner cum Deputy Commissioner of Labour, Salem.

2. The said claim was made seeking compensation for the
death of a certain Rajendran, who is the husband of 1st appellant
and father of the appellants 2 and 3, while he was in the course
of his employment. The Tribunal has passed an award for
Rs.3,59,480/- and directed the 2nd respondent to deposit the

amount within 30 days, in default of which, directed it to pay interest at 12% p.a., from the date of accident till the date of deposit.

3. The learned counsel for the appellants submitted that as per Section 4(A) of the Workmen's Compensation Act, interest is payable from 30th day of the accident and where delay in payment of compensation is unjustified, penalty is payable upto 50% under Section 4(3)(b) of the Workmen's Compensation Act, 1923. He has also relied on the following Authorities:

- (1) Pratap Narain Singh Deo v. Shrinivas Sabata and another [AIR 1976 SC 222].
- (2) Oriental Insurance Co. Ltd., v. Siby George & Others [2012(2) TN MAC 395 (SC)].
- (3) N.Ganesan v. Thilagavathi [2010(2) TN MAC 80(DB)].

4. Heard Mr.C.Kulanthaivel, learned counsel for the appellants and Mr.J.Chandran, learned counsel for the 2nd respondent.

5. The following substantial questions of law has arisen in this appeal:

- 'a) Whether the workmen's Commissioner was correct in directing to deposit the compensation without payment of interest and further whether the same is contrary to amended provision of Section 4 (A) of the Workmen's Compensation Act, 1923?
- b) As not the Tribunal below erred in not entering a finding as to the justifiability of the appeal in payment of compensation and the consequences thereof?'

6.1 There is merit in the submission of the learned counsel for the appellants as regards the contention pertaining to awarding of interest. As per Section 4(A) (3) (a) of the Workmen's Compensation Act, interest shall be paid from the 30th day of the accident and here the Tribunal below has erred. Accordingly, this is rectified and the 2nd Respondent is directed to pay interest at the rate of 12% p.a., from the 30th day of the accident.

6.2 So far as payment of penalty is concerned, it requires a finding that the delay in payment of compensation is not justifiable. This requires a finding on fact and the same is not discernible from the award of the Tribunal. To the limited extent, the matter is remanded back to the Tribunal for determining if the appellants herein are entitled to the penalty in terms of Section 4(A) (3) (b) of the Workmen's Compensation Act.

7. In the result, the appeal is partly allowed as regards payment of interest and the matter is remanded back to the Tribunal as regards to the payment of penalty. No costs.

s/d-
Assistant Registrar (CS VII)

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Sub-Assistant Registrar

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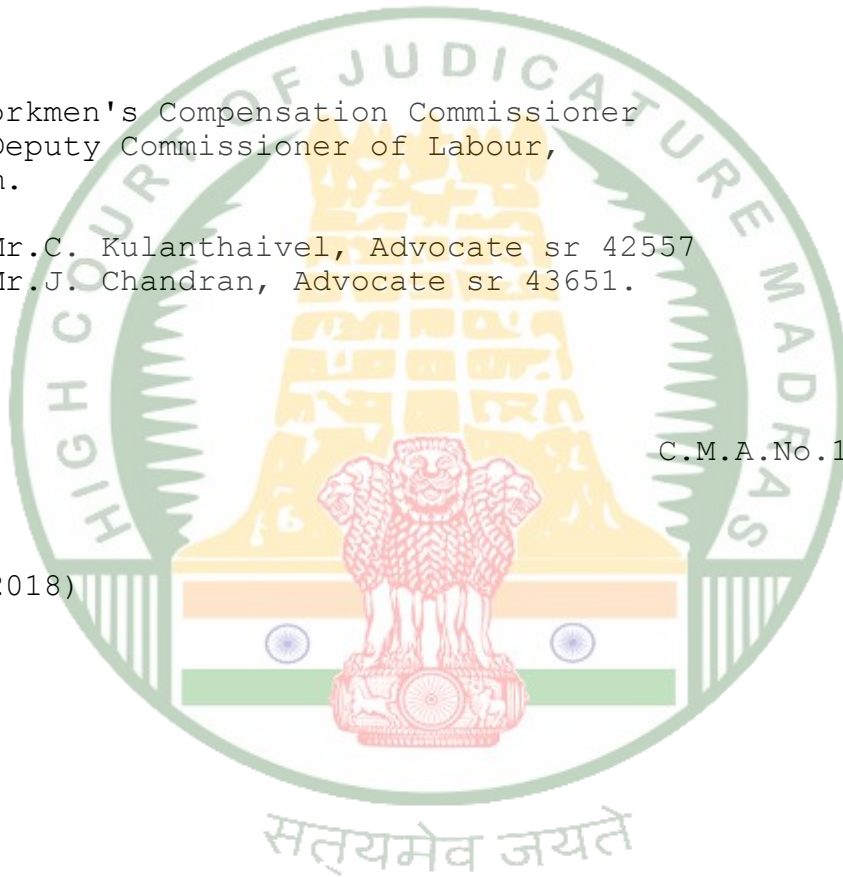
1. The Workmen's Compensation Commissioner
cum Deputy Commissioner of Labour,
Salem.

+1 CC to Mr.C. Kulanthaivel, Advocate sr 42557

+1 CC to Mr.J. Chandran, Advocate sr 43651.

C.M.A.No.1098 of 2018

SP(01/08/2018)



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