

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 19-03-2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1686 OF 2011

T.Krishnaveni @ Krishtaveni ..Appellant/Appellant

vs

1.The Chairman,
Tamilnadu Electricity Board,
Mount Road,
Chennai-600 002.

2.The Assistant Engineer (O&M),
C.E.D.C.North,
M.K.B.Division,
TNEB, Sharma Nagar,
Vyasarpadi,
Chennai -600 039.

..Respondents/Respondents

Appeal against the order, dated 07.01.2011, passed in W.C.No.549 of 2009, on the file of Deputy Commissioner of Labour-II (Commissioner for Workmen's Compensation-II), Chennai-600 006.

For appellant : Mr.A.Shanmugaraj

For respondents: Mr.V.Viswanathan,
Standing Counsel for TNEB.

JUDGMENT

Claimant is the appellant. Aggrieved over the quantum of compensation in not awarding interest made in W.C.No.549 of 2009, dated 07.01.2011, on the file of Deputy Commissioner of Labour-II- cum - Commissioner for Workmen's Compensation-II, Chennai, this appeal has been preferred.

2. According to the appellant-claimant, her husband was a casual labourer, employed under the respondents, and was drawing a sum of Rs.150/- per day towards salary. In an accident, which took place on 20.05.2008, while he was attending to repair works of an electrical line, he was electrocuted along with another person and died in the accident. The employment was

admitted. But, the respondents have relied on a document to show that the deceased was drawing only a sum of Rs.70/- as daily wages. Based on Ex.R-1, the authority under the Workmen's Compensation Act has computed the compensation. While awarding compensation, the authority has failed to award interest from the date it fell due, but the respondents were made liable to pay interest in default of deposit of the award amount within 30 days from the date of receipt of a copy of the award. On the above grounds, the appellant has raised the following substantial questions of law :

(1) Whether the Deputy Commissioner of Labour-II can fix the lesser wages than minimum wages fixed by the Government for calculating the quantum of compensation ?

(2) Whether the Deputy Commissioner of Labour-II can fix the daily wages at Rs.70/-, while the respondent (TNEB) failed to produce the payment vouchers signed by the deceased ?

(3) Whether the Deputy Commissioner of Labour-II is right in not awarding interest at the rate of 12% p.a. from the date of accident under Section 4-A (3) of Workmen's Compensation Act, while the award was passed on merit ?

3. In so far as first and second substantial questions of law are concerned, the contention of the respondents is that the deceased was drawing a sum of Rs.70/- as wages per day. Even though Ex.R-1 was marked on the side of respondents, the evidence of the respondents through R.W.1 would go to show that he was not aware of the wages paid to the deceased employee. According to the appellant, the authority should have calculated the wages as per the Minimum Wages Act, but, the authority has relied on the wage projected by the respondents, which is lesser than the Minimum Wages Act. According to the appellant, the deceased employee was drawing more than Rs.150/- per day.

4. It is well settled that the object of the enactment of the Minimum Wages Act is to avoid exploitation of labour. As per G.O.(2D)No.19, Labour and Employment (J1), dated 20.05.2004, the minimum wages for Mazdoor have been fixed by the Government of Tamil Nadu at Rs.126/- per day. In that event, the authority ought to have fixed the wages on the basis of the relevant order under the Minimum Wages Act and ought not to have fixed lesser wage than the minimum wage. It is also important to note that the respondent, being a State Government Undertaking, is expected to follow orders in letter and spirit. In such circumstances, the loss of income of the deceased ought to have

been fixed as per the Minimum Wages Act. Therefore, the above questions of law are answered in favour of the appellant.

5. Coming to third question of law, it is well settled by a Larger Bench decision of the Hon'ble Supreme Court in Pratap Narain Singh Deo v. Shrinivas Sabata and another, 1976 (1) SCC 289, that it is the duty of the employer to pay compensation as soon as personal injury is caused to the employee. It cannot be said that compensation falls due from the date of order by the authority. Following the said judgment, a Division Bench of this Court, in N.Ganesan v. Thilagavathi and another reported in 2010 (2) TN MAC 80 (DB), has held as under:

"27. In the result, the reference is answered as follows:

i. The word "falls due" occurring under Section 4-A of the Workmen's Compensation Act, 1923, in the light of the ratio laid down in the Larger Bench decision of the Hon'ble Supreme Court of India reported in Pratap Narain Singh Deo v. Srinivas Sabata and another, 1976 (1) SCC 289 and Kerala State Electricity Board v. Valsala, K., 2000 ACJ 5 (SC) means that interest for compensation amount would accrue 30 days after the date of the accident and not from the date of quantification/orders passed by the Commissioner for Workmen's compensation.

ii. The decisions rendered by the Single Bench of this Court in the decisions reported in Marimuthammal @ Marimuthu and Another v. R.P.P.Construction (P) Ltd., Chennai and others, 2007 (5) MLJ 1059; A.Chairmen v. Thirumeni & another, 2008 (1) TN MAC 38 had laid down the correct position in consonance with the ratio laid down by the Larger Bench of the Hon'ble Supreme Court of India in the above cited decisions."

Therefore, the authority ought to have directed the respondents to pay interest from 31st day of the accident. The third question of law is also answered in favour of the appellant.

6. In the result, the award is reworked as under :

$$\text{Rs.}5000 \times 169.44 \times 4000 + 2500 = 3,41,380/-$$

The respondents are directed to deposit the award of compensation of Rs.3,41,380/- along with interest at the rate of 12% per annum from the 31st day of the accident till the date of deposit within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the appellant-claimant is permitted to withdraw the amount.

7. Civil Miscellaneous Appeal is allowed accordingly. No costs.

Sd/-
Assistant Registrar (Cs-VIII)

//True Copy//

Sub Assistant Registrar

dixit

To

1. Deputy Commissioner of Labour-II
(Commissioner for Workmen's Compensation-II),
Chennai-600 006.

2. The Chairman,
Tamilnadu Electricity Board,
Mount Road,
Chennai-600 002.

3. The Assistant Engineer (O&M),
C.E.D.C. North,
M.K.B. Division,
TNEB, Sharma Nagar,
Vyasarpadi,
Chennai - 600 039.

+ 1 cc to Mr.V.Viswanathan, Advocate Sr.20668
+ 1 cc to Mr.A. Shanmugaraj, Advocate Sr.21236

C.M.A.No.1686 OF 2011

SVI (CO)
EU (28/04/2018)

WEB COPY