

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 28.02.2018
CORAM
THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
C.M.A. No. 2205 of 2016

P. Prabhu @ Prabakaran

..Appellant

Vs.

1. Mr.R. Arun
(R1remained ex parte in Lower Court)

2. Reliance General Insurance Co. Ltd.,
'Rai's Tower, 2nd Floor'
Plot No. 2054, 2nd Avenue,
Anna Nagar, Chennai 600 040. ...Respondents

Prayer: Civil Miscellaneous Appeal as against the order dated 09.03.2016 passed in W.C. No. 112/2012 by the Deputy Commissioner of Labour - I (Commissioner for Employee's Compensation-I), Chennai 600 006.

For Appellant :: Mr.A. Shanmugaraj
For Respondents:: R1 Ex parte
Mr.S. Arunkumar for R2

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the claimant against the award of Rs.7,42,117/- passed by the Workmen's Compensation Commissioner with regard to non-consideration of Ex-P9 Medical Bills and consequent non-awarding of Rs.1,35,600/- towards the same.

2. The following substantial question of law arises for consideration in this appeal:

"Whether the Commissioner for Employees' Compensation erred in failing to include the medical expenses amount of Rs. 1,83,078/- as per Ex-P9 and Ex-P10 and arbitrarily fixed the medical expenses as Rs.35,811/-?"

3. The facts of the case are as follows:

The appellant was working as a Loadman in the lorry belonging to the 1st respondent on a daily wage of Rs.300/- and a sum of Rs.50/- to Rs.100/- as daily incentive depending upon the work. On 11.01.2011, while travelling as a Loadman in the lorry belonging to the 1st respondent, the lorry driver suddenly applied the break and consequently, the appellant fell down from

the lorry and sustained grievous injuries namely, brain stem injury - non haemorrhagic, contusion brain stem, diffused cerebral odema, left hemiparesis and also sustained fracture in left clavicle. The appellant took treatment in Excellent Care hospital, Velacherry from 11.01.2011 to 12.02.2011 as an inpatient and spent a sum of Rs.2 lakhs. Thereafter, the claim petition was filed.

4. Though the 2nd respondent contested the claim petition filed by the workman, the Commissioner for Workmen's Compensation found that the appellant was employed under the 1st respondent and only during the course of employment, he sustained injuries. On the side of the claimant, one Doctor was examined as P.W.2 and another Doctor was examined as R.W.1 on behalf of the 2nd respondent. The Doctor, R.W.1 confirmed the medical records produced by the appellant. Though medical evidence and bills were taken note of by the Commissioner, yet, he failed to take note of Ex-P9, the final bill raised by Excellent Care Hospital, Velachery dated 12.02.2011, which shows expenses incurred by the appellant to the tune of Rs. 1,35,600/-. When all the other medical bills issued by the very same hospital had been accepted by the Commissioner, without any reasoning, Ex-P9 was not taken note of by him. Therefore, the appellant is entitled to the amount of Rs.1,35,600/-, towards medical expenses, apart from Rs.7,42,117/- awarded by the Commissioner. The total amount payable is Rs.8,77,717/-. The question of law raised is answered in favour of the appellant.

5. As far as the rate of interest is concerned, following the judgment of the Honourable Apex Court rendered in Pratap Narain Singh Deo V. Srinivas Sabata reported in 1976 (1) SCC 289, the rate of interest would be 12% on the award amount and payable after 30 days from the date of accident. Hence, the 2nd respondent is directed to deposit the amount as per the judgment of this Court together with interest at the rate of 12% within a period of four weeks from the date of receipt of a copy of this order.

6. The Civil Miscellaneous Appeal is allowed with the above direction. No costs.

Sd/-
Assistant Registrar (CS II)

//True Copy//

Sub Assistant Registrar

nv

To

1. Reliance General Insurance Co. Ltd.,
'Rai's Tower, 2nd Floor'
Plot No. 2054, 2nd Avenue,
Anna Nagar, Chennai 600 040.

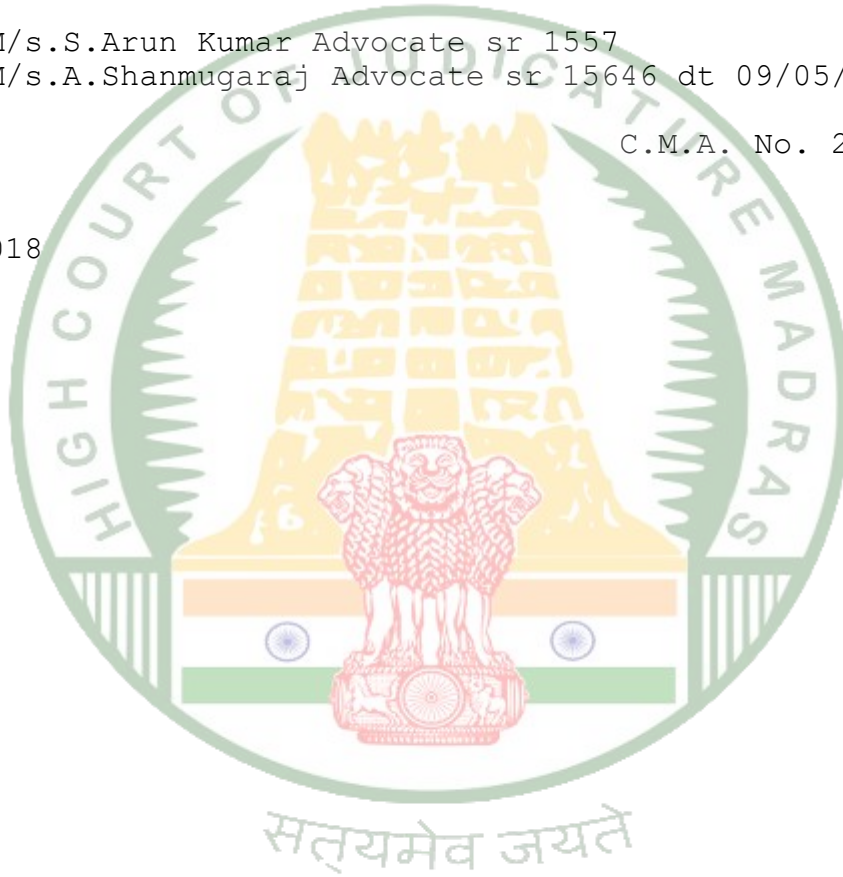
2. The Deputy Commissioner of Labour I
Commissioner for Employees Compensation I
Chennai-600 006

+1 cc to M/s.S.Arun Kumar Advocate sr 1557

+1 cc to M/s.A.Shanmugaraj Advocate sr 15646 dt 09/05/2018

C.M.A. No. 2205 of 2016

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