

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2018

Coram

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A.No.1190 of 2018

1. Rani
2. Vijayalakshmi
3. Sangeetha ... Appellants/Petitioners/Applicants
verses

1. S.Saravanan
2. National Insurance Co. Ltd.,
Third Party Cell HUB,
No.751, Annasalai,
Chennai - 600 002....Respondents/Respondents/Opposite Parties

Prayer : The Civil Miscellaneous Appeal is filed under Section 30 of the Workmen's Compensation Act, pleaded to modify the award dated 08.12.2016 made in W.C.No.64 of 2015 on the file of the Deputy Commissioner of Labour-II, Chennai.

For Appellant : Mrs.M.Malar

For Respondents : Mr.S.Vadivel (for R2)
No appearance (for R1)

JUDGMENT

The Civil Miscellaneous Appeal is filed to modify the award dated 08.12.2016 made in W.C.No.64 of 2015 on the file of the Deputy Commissioner of Labour-II, Chennai.

2. The appellant/claimant filed this appeal seeking enhancement of award amount passed by the Workmen compensation authority on the ground that though the salary of the deceased was originally fixed by the authority/Deputy Commissioner of Labour-II is Rs.9787/- per month. But the authority has taken only Rs.8,000/- per month as salary of the deceased since it is restricted as per 4 (1B) of the Employee's Compensation Act.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. By referring the Judgment passed by this Court in CMA No.1727 of dated 02.11.2018, it is evident that the learned Judge has enhanced the monthly wages of the deceased claimants from Rs.8,000/- to Rs.16,000/- on the ground that the Central Government redetermine the monthly wages under Section 4(1-B) of the Employee's Compensation Act though the minimum wages of Rs.8,000/- was notified about 8 years ago and hence the Central Government calculated the minimum wages of the deceased claimants for every 8 years.

5. In addition to that the Hon'ble Division Bench of the Supreme Court also delivered a Judgment reported in 2016 (1) TN MAC 289 SC in the case of Jaya Biswal and others Vs. Branch manager, IFFCO Tokio General Insurance Co. Ltd and others wherein the minimum wage of the deceased was fixed at the rate of Rs.10,000/- per month.

6. In view of the above, relying on the judgments of this Court and the Hon'ble Supreme Court supra, this Court is inclined to pass the following order:

This Civil Miscellaneous Appeal is partly allowed by enhancing the salary of the deceased claimant from Rs.8,000/- to Rs.9787/- as prayed for and the award amount is modified under the head of salary . Except the head 'salary', other heads are confirmed as ordered by the Tribunal.
The modified award amount is hereunder:

1	Age	:	51
2	Relevant factor	:	149.67
3	Salary	:	Rs.9787/-
4	Loss of earning capacity	:	$50/100 \times 149.67 \times 9787 = \text{Rs.}7,32,410/-$
5	Funeral expenses	:	Rs.5000/-
6	Bills	:	Rs.3682/-
	Total	:	Rs.7,37,410/- (Rupees Seven Lakhs Thirty Seven Thousand Four Hundred and Ten Only)

8. The second respondent/National Insurance Co. Ltd., is directed to deposit the amount of compensation, along with interest at 12% per annum, from the date of petition till the date of deposit, less the amount already deposited, if any,

within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the appellants/ claimants are permitted to withdraw the said amount on filing appropriate application before the Tribunal as per the ration of apportionment made by the Claims Tribunal. No costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

vum

To

1. The Deputy Commissioner of Labour II
Chennai.
2. National Insurance Co. Ltd.,
Third Party Cell HUB,
No.751, Annasalai,
Chennai - 600 002.

+1 CC to Mrs.M.Malar, Advocate sr 84593.
+1 CC to Mr.S.Vadivel, Advocate sr 84501.

C.M.A.No.1190 of 2018

KK(CO)
SP(29/03/2019)