

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.452 of 2018
and
C.M.P.No.3895 of 2018
and
C.M.A.No.512 of 2018

C.M.A.No.452 of 2018
and
C.M.P.No.3895 of 2018

The New India Assurance Co. Ltd.,
Pattulous Road, Divisional Office (710700),
Sundaram Finance Buildings, 2nd Floor,
B-Block, No.21, Pattulous Road,
Chennai-600 002. ... Appellant

Vs.

1. Tmt.Serina Bibi @ Serina Bewa
2.M/s.Padmaja System & Services Pvt. Ltd.,
No.71-C, New Avadi Road,
Kilpauk,
Chennai-600 010. ... Respondents

C.M.A.No.512 of 2018

Tmt.Serina Bibi @ Serina Bewa ... Appellant

Vs.

1.M/s.Padmaja System & Services Pvt. Ltd.,
No.71-C, New Avadi Road,
Kilpauk,
Chennai-600 010.
2. The New India Assurance Co. Ltd.,
Pattulous Road, Divisional Office (710700),
Sundaram Finance Buildings, 2nd Floor,
B-Block, No.21, Pattulous Road,
Chennai-600 002. ... Respondents

Common Prayer : Civil Miscellaneous Appeals filed under
Section 30 of the Employees Compensation Act on Liability &
<https://hcservices.ecourts.gov.in/hcservices/>

Quantum against the order dated 17.10.2017 made in E.C.No.101 of 2016 on the file of the Commissioner for Employees Compensation - I (Deputy Commissioner for Labour - I) at Chennai-600 006.

For Appellant : Mr.C.R.Ramesh Babu
[in C.M.A.No.452 of 2018]
For Appellant
[in C.M.A.No.512 of 2018] : Ms.A.Subadra

For Respondent : Ms.A.Subadra [For R1]
[in C.M.A.No.452 of 2018]
For Respondent
[in C.M.A.No.512 of 2018] : Mr.C.Ramesh Babu
[For R2]

COMMON JUDGMENT

A certain S.K.Nurtajul @ Sheikh was an employee of M/s.Padmaja System & Services Pvt. Ltd. In the course of his employment, he met with an accident and died, consequent to which his widow had approached the Deputy Commissioner of Labour, under Employees Compensation Act, in E.C.No.101 of 2016 and this was ordered on 17.10.2017. In its order determining the quantum of compensation, the Deputy Commissioner of Labour had reckoned the monthly income of the victim of the accident at Rs.8,000/-, accordingly quantified the compensation amount at Rs.7,36,680/-. To this he added Rs.1,43,213/- as medical expenses and Rs.5,000/- towards funeral expenses. This has triggered two appeals one by the Insurance Company and the other by the claimant herself.

2. The claimant in her appeal in C.M.A.No.512 of 2018 would contend that the victim was earning Rs.12,160/- per month and this is evidenced by Ext.A6-Salary Slip but the Deputy Commissioner of Labour did not appreciate this document adequately and adopted schedule rate of income of Rs.8,000/- without any basis.

3. The Insurance Company in its appeal in C.M.A.No.452 of 2018, challenged the award regarding the medical expenses incurred during the period between the date of accident and the date of death of the workman.

4. On perusal of records, it is seen from Ext.A6 that the employee was paid Rs.8,400/- per month, at the rate of Rs.280/- per day. Rest of the expenses are merely allowances paid to him. The learned counsel for the Insurance Company would submit that in terms of the contract of insurance evidenced by Ext.A7, the Insurance Company would be liable to pay the compensation only to the extent of such compensation reckoned at Rs.8,000/- per month and not above. Accordingly, his monthly income is reckoned as Rs.8,400/-, if so applied,

the compensation payable would be [50/100 X 8400 X 184.17] Rs.7,73,514/-. The award as to the other heads remains unaltered.

5. C.M.A.No.452 of 2018 is concerned, there is neither pleading nor evidence on its record in this aspect. Therefore, this Court finds no merit in the appeal and the same is dismissed.

6. C.M.A.No.512 of 2018 is allowed and the Insurance Company/2nd respondent is directed to pay Rs.9,21,727/- less amount awarded by the Tribunal with interest at the rate of 12% per annum from the 30th day of the accident. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

ssn

To:

The Commissioner for Employees Compensation - I,
(Deputy Commissioner for Labour - I),
Chennai-600 006.

+1cc to Mr.A.KALAIYARASI, Advocate SR.No.35564
+1cc to Mr.C.RAMESH BABU, Advocate SR.No.35502

C.M.A.No.452 of 2018
and
C.M.P.No.3895 of 2018
and
C.M.A.No.512 of 2018

SS (CO)
SMI/13.08.2018

WEB COPY