IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2018

CORAM

THE HON'BLE MR. JUSTICE M.GOVINDARAJ

C.M.A.No.3045 of 2013

K.Parthasarathy ...Appellant

vs.

1. Saravanan
(R1 remained exparte before the Forum)

2.The New India Assurance Co.Ltd.,
No.46, Street,
Chennai - 600 001. ... Respondents

Civil Miscellaneous Appeal filed under Order 30 of the Workmen's Compensation Act, 1923, against the award dated 01.08.2008 and made in W.C.NO.No.149/2005 on the file of the Deputy Commissioner of Labour II, Chennai.

For Appellant : Mr.F.Terry Chellaraja

For Respondents : Mr.Kandaswamy for R2

J U D G M E N T

Aggrieved over the order passed by the Deputy Commissioner of Labour-II, Chennai in W.C.No.149 of 2005 on 01.08.2008 the appellant has come before this Court with this Civil Miscellaneous Appeal.

2. The claimants preferred the appeal on the following questions of law:-

" a) whether the learned Deputy Commissioner of Labour-II is right in fixing the disability of the injured as 20% as assessed by the Doctor without fixing the loss of earning capacity?

b) whether the learned Deputy Commissioner of Labour - II, is right in not fixing the earning capacity as 100%?

c) 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 excluding 30days from the

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date of accident under Sec.4(A) of the W.C.Act while the award was passed in merits?".

3. Though learned counsel raised the issues regarding question of compensation, has restricted his contention with regard to third question of law regarding interest alone. The authority under the Workmen's Compensation Act, 1923 while passing orders in W.C.No.149 of 2005 dated 01.08.2008 has directed the second respondent Insurance Company to deposit a sum of Rs.76,931/- as compensation within 30 days failing which the claimants are entitled to interest @ 12% p.a.

4. According to the learned counsel for the appellants as per Section 4(A)(3) of the Employee's Compensation Act 1923, the appellants are entitled to interest after 30 days from the date of accident.

5. I have considered the materials on records placed before this Court.

6. The issue involved in this appeal is settled by a decision of the Larger Bench of the Hon'ble Supreme Court in Pratap Narain Singh Deo vs Shrinivas Sabata and another reported in 1976 A.C.J.141, wherein, the Hon'ble Supreme Court has held that if the word "falls due" as specified under Section 4-A of the Employee's Compensation Act, 1923, denotes the date of accident and not the date of order passed by the authority, the claimant is entitled for interest after 30 days from the date of accident.

7. It is well settled that Section 4(A)(3)(a) reads as under:-

> (3) Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner shall-
>
> (a) direct that the employer shall, in addition to the amount of the arrears, pay simple interest thereon at the rate of twelve per cent per annum or at such higher rate not exceeding the maximum of the lending rates of any scheduled bank as may be specified by the Central Government by notification in the Official Gazette, on the amount due, and

Therefore on adjudication the authority should have awarded interest @ 12% per annum from the date it fell due.

8. A Division Bench of this Court in N.Ganesan Vs. Thilagavathi and another reported in 2010 (2) TN MAC 80 (DB) has also followed the above-mentioned judgment and has held as follows :-

> "27. (i) The word "falls due" occurring under Section 4-A of the Workmen's

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> 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."

9. The principle is well settled by the Hon'ble Supreme Court and the authority should have ordered interest from the date the amount falls due (i.e) 30 days after the accident. But, in the impugned order, the authority has awarded interest, in default of deposit of award amount within a period of 30 days from the date of order. The impugned order is contrary to the statute and the judgment of the Supreme Court and High Courts. The claimant is entitled to interest after the lapse of 30 days from the date of accident. Accordingly, the second respondent Insurance Company is directed to deposit interest on the compensation awarded at the rate of 12% p.a. from the 31st day of the accident till the date of deposit within a period of four weeks from the date of receipt of a copy of this order.

10. With the above directions, this Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Deputy Commissioner of Labour II,
Chennai.

2.The New India Assurance Co.Ltd.,
No.46, Street,
Chennai - 600 001.

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COPY TO:

The Section Officer,
VR Section,
High Court, Madras.

+1cc to m/s.M.Malar, Advocate sr.no.12776

C.M.A.No.3045 of 2013

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