

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.3090 OF 2013

Kothandan

... Appellant

Vs.

1. M.Arunkumar

2. The United India Insurance Co. Ltd.,
A.R. Complex, II Floor,
No.1090, P.H. Road,
Chennai - 600 084.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, against the award dated 11.05.2009 made in W.C.No.105 of 2008 by the Deputy Commissioner of Labour - II, Chennai.

For Appellant : Mr.F.Terry Chellaraja
For Respondent-2 : Mr.P.Sankaranarayanan
For Respondent-1 : Set Exparte

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the claimant against the order passed in a claim made under Workmen's Compensation Act in respect of quantum of compensation and payment of interest.

2. The appellant / claimant on the basis of the injuries suffered by him during the course of his employment, laid a claim petition against the respondents. The Tribunal on the basis of the oral and documentary evidence, has fixed compensation as Rs.48,499/-. According to the appellant/claimant, the percentage of physical disability was assessed by the Doctor as 15%. The Tribunal, without assessing the loss of earning capacity on the basis of the nature of injury, substituted the same percentage while computing the compensation. The Authority has not applied his mind as to the disability and loss of earning capacity. Further, the authority

has not awarded interest from the date when it fell due. Therefore, the appellant / claimant is before this Court.

3. While the appeal was taken up for hearing, learned counsel for the appellant would restrict claim with respect to interest alone. That is, as per Section 4(A) of the Workmen's Compensation Act, 1923, the appellant is entitled to interest after 30 days from the date of accident and not as ordered by the authority that in default of deposit of compensation.

4. 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 [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 quantifying the compensation passed by the authority, the claimant is entitled for interest after 30 days from the date of accident.

5. A Division Bench of this Court in N.GANESAN VS. THILAGAVATHI AND ANOTHER [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 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."

6. 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. If the amount is deposited in time prescribed there will not be any interest at all. The impugned order is contrary to the statute and the judgment of the Supreme Court and High Courts. It literally deprives the claimant of the accrued interest provided in the statute. The spirit of the beneficial legislation in a social welfare state will be defeated by such an order.

7. Since, the issue is well settled by the Hon'ble Supreme Court, the impugned order dated 11.05.2009 passed in W.C.No.105 of 2008 by the Deputy Commissioner of Labour - II, Chennai, is set aside insofar as the award of interest alone.

8. The learned counsel for the second respondent / insurance company would submit that the entire award amount has already been deposited.

9. In such an event, the second respondent is directed to deposit the interest from the date it fell due i.e., 30 days after the date of accident till the date of deposit as per Section 4-A of the Act at 12% per annum within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the appellant / claimant, is entitled to withdraw the same.

10. The Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

TK

To

1. The Deputy Commissioner of Labour - II
Chennai.
2. The Section Officer,
VR Section, High Court,
Madras-104. (2 Copies)

+1cc to M/s.M.Malar, Advocate in sr.no.12563

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