IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2018

CORAM

THE HON'BLE MR. JUSTICE M.GOVINDARAJ

C.M.A.No.3582 of 2013

S.Ramalingam ...Appellant

vs.

1. M/s.Seithana Enterprises Pvt Limited,
   No.1, Vaigai Nagar,
   Tambaram West,
   (R1 remained exparte before the Forum)

2. The New India Assurance Co.Ltd.,
   2-B.R.Complex,
   Anna Salai,
   Chennai 600 002. ... Respondents

Civil Miscellaneous Appeal filed under Order 30 of the Workmen's Compensation Act, 1923, against the award dated 30.04.2009 passed in W.C.No.284/2008 by the Deputy Commissioner of Labour - II.

For Appellant : Mr.M.Malar

For Respondents : Mr.Krishnamoorthy for R2

J U D G M E N T

Aggrieved by the award of the Deputy Commissioner for Labour - II, appellant/claimant has preferred the above appeal. The grievance of the appellant/claimant is that the Deputy Commissioner of Labour - II ought to have awarded interest on the award amount after a period of 30 days from the date of accident as per Section 4-A of Employee's Compensation Act, 1923 and not from the date of order passed by him.

2. According to the appellant, the authority has awarded compensation of a sum of Rs.1,63,498/- and directed the second respondent Insurance Company to deposit the same within 30 days from the date of receipt of the award. The second respondent has deposited the amount as per the order. The grievance of the appellant is that as per Section 4-A of the Employee's Compensation Act, 1923, he is entitled to interest from 31st day of accident, whereas the authority has awarded interest only in default of deposit of award amount and therefore the appellant is before this Court.

3. 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.

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 reported in 1976 A.C.J.141, wherein, the Hon'ble Supreme Court has held that 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 final order passed by the authority. The claimant is entitled for interest after 30 days from the date of accident.

5. In N.Ganesan Vs. Thilagavathi and another reported in 2010 (2) TN MAC 80 (DB) following above mentioned judgment it was held as under:-

"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 a Hon'ble Division Bench of this Court that 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, judgments of the Hon'ble Supreme Court and High Courts and deprives the claimant of his statutory entitlement. The

claimant is entitled to interest after the lapse of 30 days from the date of accident. The order in respect of non awarding interest passed by the authority is modified by directing the second respondent

Insurance Company 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.

7. The learned counsel for the second respondent would submit that the appellant preferred the appeal with a delay of 1447 days. For the delayed period, the appellant is not entitled to interest. It is true that the insurance company would have deposited the amount, had the appeal been preferred in time and save the public money on interest. For the fault of the appellant, the insurance company shall not be penalised and the claimant is not entitled to interest for the delayed period. The insurance company directed to deposit the appropriate interest @ 12% p.a from 31st day of the accident till the date of deposit after excluding 1447 days, the period of delay caused by the appellant.

8. Accordingly, the second respondent is directed to deposit the interest portion from the date of accrual as per Section 4-A of the Act at 12% per annum till the date of deposit after deducting interest for

1447 days delay as indicated above within a period of four weeks from the date of receipt of a copy of this order.

9. With the above direction, this Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To
1. The Deputy Commissioner of Labour - II,
Chennai.

2. The New India Assurance Co.Ltd.,
2-B.R.Complex,
Anna Salai,
Chennai 600 002.

3.The section officer,
VR section high court chennai

+1cc to Mr.M.Malar,Advocate,sr12209

+1cc to Krishnamoorthy,advocate,sr12037

C.M.A.No.3582 of 2013

Ad(co)
GSP(05/005/2018)