IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.818 of 2012
and M.P.Nos.1 & 2 of 2012

The Management
Mukottu Mudi Estate
Bombay Burmah Trading Corporation Ltd.,
Mudis P.O.642 117
Valparai. ... Appellant/
1st Opposite party

Vs.

1. Selvi. Jeeva
2. Saravanan
3. Vinayakan
4. Sheela ...1 to 4 Respondents/
1 to 4 Claimants

5. The New India Assurance Co., Ltd.,
No.863 Big Bazaar street,
Coimbatore 641 001.
...5th Respondents/
2nd Opposite party

Prayer : Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923 pleased to allow the above appeal and set aside the order dated 25.10.2011 in W.C.No.40 of 2010 on the file of the Deputy Commissioner of Labour (Commissioner for Workmen's Compensation), Coimbatore in so far as it imposes liability for payment of interest on the appellant.
Prayer amended vide order of this Court dated 08.06.2012 made in M.P.No.2 of 2012 in CMA.No.818 of 2012.

For Appellant : M/s.V.Achuthan

For Respondents : M/s.K.Vinod for R5

J U D G M E N T

This appeal is against the award of compensation made by Workmen's Compensation Act in W.C.No.40 of 2010 on the file of Deputy Commissioner of Labour, Coimbatore dated 25.10.2011.

2. The Management is the appellant. The claimants mother was a worker under the appellant Management. On the date of incident the deceased was plucking tea leaves, at that time she got fainted and fell down and soon she was carried out to the hospital by a lorry. The Doctor declared that the deceased was brought dead. The claimants filed the claim petition on the ground that the mother died during the course of employment and she is entitled to compensation.

3. After conducting an elaborate enquiry, the authority under Workmen's Compensation Act arrived at a finding that the claimants are entitled to compensation for the death of their mother during the course of employment and computed the compensation amount as Rs.2,54,607/-. The second respondent Insurance Company had deposited the money but the appellant has preferred the appeal on the ground that when the liability itself was disputed, they are not liable to pay interest. According to them for the natural death they need not pay any compensation much less the interest. On the basis of legal grounds raised, the following question of law is framed:-

a. According to the learned counsel for the appellant Management, the liability by itself is disputed and when the employer is not liable to make any deposit under the Workmen's Compensation Act, it goes without saying that, the interest also need not be paid.

The following questions of law were framed in the appeal:-

1. Under the provisions of Section 4A(3) of the Workmen's Compensation Act, when compensation 'fell due' only one month from the date of adjudication/computation, is the employer liable to pay interest under Section 4A(3)(a) of the Act from the date of the accident or one month thereof?

2. Whether the award of simple interest at 12% p.a. on the amount subsequently adjudicated/computed by the Commissioner for the period of the adjudication is permissible under the provisions of Section 4A(3) (a) of the Workmen's Compensation Act?

3. When an employer is not bound to make any deposit as contemplated under Section 4A(2) of the Workmen's Compensation Act, the employer disputing any

liability whatsoever for compensation payable under the Act, can the Commissioner proceed to deem that the amount subsequently computed is the amount which ought to have been deposited by the employer under Section 4A(2) of the Act and proceed to levy interest under Section 4A(3)(a) of the Act?

b. 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

4. When the authority after adjudication found that the claimants are entitled to compensation, the defaulting employer or his insurer shall deposit with interest @ 12% on the amount due on the lapse of 30 days. Since the issue revolves around the entitlement of the claimant to receive the interest alone, we restrain ourselves from delving into the question as to who is liable to pay the interest.

5. 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.

6. Therefore the question of law raised as to whether the Management is liable to pay interest or not is answered in favour of the claimants. The claimants are entitled to interest as per Section 4-A of the Employee's Compensation Act, 1923, on the amount due from the date of accident.

7. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

dpq
To

1. The Deputy Commissioner of Labour, Coimbatore

2. The New India Assurance Co., Ltd.,
No.863 Big Bazaar street,
Coimbatore 641 001.

+1 cc to Mr.V.Achudan Advocate sr 11907
+1 cc to Mr.K.Vinod Advocate sr 12132

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sks(co)
aa21/06/2018