

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.Nos.553 & 554 of 2016
& CMP Nos.7467/16, 7668 & 7686/2018 in WA 553/16
& CMP Nos.7468 & 7469/16 & 7669/2018 in WA 554/16

1. The Secretary to Government,
Department of Co-operative Societies,
Fort St. George, Chennai 600 009.
2. The Registrar of Co-operative Societies,
Chennai 600 005.
3. The General Manager,
Park Town Co-operative Wholesale Stores Ltd.,
Davidson Street,
Chennai 600 001. Appellant in both the Appeals

versus

1. S.Subhulakshmi
2. The Principal Labour Court,
Chennai. Respondents in both the Appeals

Appeals filed against the order passed by this Court dated 26.02.2016 passed in W.P.Nos.24943 & 37616 of 2015 respectively.

WP.No.24943/2015:Petition filed under Art 226 of the Constitution of India praying to issue writ of certiorarified mandamus to call for the records in C.P.No.380 of 2013 and the order dated 13.01.2015 passed by the Principal Labour Court Chennai and Quash the order dated 13.1.2015 in C.P.No.380/2013 so far as it relates to awarding interest at 12% P.a. on the sum of Rs.256 242/- only from the date of C.P.No.380 of 2013 instead of from 20.01.1995 (the date of death of petitioner husband) and consequently direct the respondents to pay the said sum of Rs.2 56 242/- as awarded by the Labour Court with interest at 12% p.a. from 20.01.1995 on the said sum of Rs.2 56 242/- with other service benefits including employment to the deceased family member according to his/her qualification.

WP.No.37616/2015:Petition filed under Article 226 of the Constitution of India praying to issue of writ of certiorari to call for the records relating to the passing of the order in C.P. No. 380 of 2013 dated 13.01.2015 on the file of the Principal Labour Court Chennai.

For Appellant : Mr.L.P.Shanmugasundaram
(in both the Appeals) Special Government Pleader

For Respondents : Mr.K.Shanmugam
(in both the Appeals) for M/s.Shanmugha Associates

C O M M O N J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

Challenge in the Intra Court Appeals are to the orders of the learned Single Judge dated 26.02.2016 made in WP Nos.24943 and 37616 of 2015.

2. While WP No.24943 of 2015 was filed by the respondent herein challenging the award of the Labour Court insofar as it relates to the grant of interest, which was confined by the Labour Court, from the date of the filing of the Claim Petition in CP No.380 of 2013 and seeking interest from 20.01.1995, viz., the date of death of the workman, WP No.37616 of 2015 was filed by the appellants challenging the award of the Labour Court directing payment of a sum Rs.2,56,242/- with interest at 12% per annum from the date of the Claim Petition till date of payment.

The brief facts that led to the filing of the Writ Petitions are as follows:

3. The husband of the 1st respondent was a permanent employee of the 3rd appellant society. He died in harness on 20.05.1995. He was placed under suspension, three months prior to his death, however, even before the enquiry proceedings could commence, the workman died. After the death, the 1st respondent had approached the 3rd appellant Society for settlement of dues such as Gratuity, Provident Fund, Group Insurance and other terminal benefits. After prolonged correspondence, the 3rd appellant by its proceedings dated 23.04.1996 authorised payment of a sum of Rs.19,391.90 out of the Group Insurance of Rs.60,000/- after deducting a sum of Rs.40,743.60 which was claimed to be the value of the shortage of goods and the balance of Festival Advance.

4. The 1st respondent had filed WP No.10059 of 1997 challenging the said proceedings dated 23.04.1996. This court, by an order dated 05.08.2013, disposed of the Writ Petition giving liberty to the respondent to approach the Labour Court under Section 33-C (2) of the Industrial Disputes Act.

Thereafter, the 1st respondent filed the Claim Petition in CP No.380 of 2013 before the Labour Court. The Labour Court computed the amount payable to the respondent at Rs.2,56,242/-. While considering the question of interest, the Labour Court directed payment of interest at 12% per annum on the said sum of Rs.2,56,242/- from 12.08.2013, viz. the date of filing of the Claim Petition.

5. Aggrieved by the award of Rs.2,56,242/- the appellants, who were respondents before the Labour Court, had filed WP No.37616 of 2015 in this Court. Questioning the award of interest only from the date of the Claim Petition, the respondent herein viz. claimant before the Labour Court had filed in WP No.24943 of 2015.

6. The learned Single Judge, who heard the Writ Petition confirmed the findings of the Labour Court and while dismissing WP No.37616 of 2015 partly allowed WP No.24943 of 2015 directing the payment of interest at the rate of 8% from the date of the death of the employee viz. 20.01.1995 till 12.08.2013, viz. the date of the filing of the Claim Petition and thereafter awarded 12% interest till date of payment. It is this common order of the learned Single Judge, which is under challenge in these intra Court Appeals.

7. We have heard Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing for the appellants and Mr.K.Shanmugam learned counsel appearing for M/s.Shanmugha Associates for the 1st respondent.

8. Mr.L.P.Shanmugasundaram, learned Special Govt. Pleader appearing for the appellants would assail the award of the Labour Court in granting a sum of Rs.2,00,000/- as death compensation contending that the same has no illegal basis. According to him, there is no provision for payment of death compensation to the employees of the 3rd appellant Society. They are covered by the Group Insurance Scheme and therefore, they would be entitled to only the benefits of Group Insurance Scheme and nothing more. As regards the other amounts, which are awarded by the Labour Court, Mr.L.P.Shanmugasundaram, would fairly concede that those amount were payable to the claimant/respondent.

9. Mr.K.Shanmugam, learned counsel appearing for the 1st respondent is unable to point out any Statutory Rule or Government Order which provides for payment of sum of Rs.2,00,000/- as death compensation. We must at this juncture point out that even in the Claim Petition filed by the 1st respondent she had not made a specific claim towards death benefit. The prayer in the Claim Petition itself is general in

nature, wherein the respondent had sought for payment of entire terminal benefits payable in respect of the deceased employee, with interest at 24% per annum from 20.01.1995, viz. the date of death of the employee. The documents produced before the Labour Court also do not reflect the entitlement of an employee, who dies in harness to any death compensation.

10. The learned Single Judge had, after noticing that the 3rd appellant society had failed to comply with the orders of this Court, confirmed the award of the Labour Court without actually considering the claim of the 3rd appellant society that there was no legal basis for award of Rs.2,00,000/- towards death compensation. We are unable to see any justification for the award of Rs.2,00,000/- as death compensation. May be the husband of the 1st respondent had died in harness, but unless there is a provision in the relevant Statutory Rules or any scheme for payment of death compensation, the same cannot be claimed as a matter of right under Section 33-C(2) of the Industrial Dispute Act. In the absence of any proof as to the entitlement of the 1st respondent to the said sum of Rs.2,00,000/- we are unable to uphold the grant of said sum of Rs.2,00,000/- to the 1st respondent. Hence, the award of the Labour Court as confirmed by the learned Single Judge is liable to be modified and the same is modified, awarding only a sum of Rs.56,242/-, towards the balance payable under the Group Insurance Scheme and other retirement benefits including Gratuity. We must add that the quantum so worked out by the Labour Court i.e., Rs.56,242/- is not in dispute.

11. In view of the above, the Writ Appeal is partly allowed and the order of the learned Single Judge as well as the award of the Labour Court will stand modified directing payment of Rs.56,242/- only towards the retirement benefits of the deceased workman.

12. It is stated by the learned counsel for the appellant that a sum of Rs.56,242/- has already been deposited before the Labour Court to the credit of CP No. 380 of 2013. Pursuant to the direction of the Division Bench, the 3rd appellant had paid a sum of Rs.1,00,000/- to the 1st respondent by way of Cheque bearing No.409671 dated 20.03.2018 on 17.04.2018.

13. We are now concerned only with the interest portion, what remains to be considered is a question of interest. The learned Single Judge has granted interest at 8% on Rs.2,56,242/- for the period of 18 years and 7 months, between 20.01.1995 to 12.08.2013. Thereafter, the learned Single Judge had granted 12% interest. Now that, we have held that the 1st respondent is entitled only to a sum of Rs.56,242/-, the interest at 8% for the period of 18 years and 7 months, as stated supra, on Rs.56,242/- would work out to Rs.83,612/-. It is stated that a sum of Rs.56,242/- has already been deposited with the Labour Court. Apart from depositing the sum of Rs.56,242/-, the 3rd

appellant Society paid a sum of Rs.1,00,000/- on 17.04.2018. Since the sum of Rs.56,242/- has already been deposited by the 3rd appellant Society to the credit of C.P.No.380 of 2013 on the file of the Labour Court, we are of the view that interest of justice would be subserved by permitting the 1st respondent to withdraw the monies that are lying to the credit of CP No.380 of 2013 on the file of the Principal Labour Court, Chennai, without going into the details of the interest calculation.

14. The Writ Appeal is disposed of with the above directions. The respondent is permitted to withdraw a sum of Rs.56,242/- along with accrued interest which is lying to the credit of C.P.No.380 of 2013 on the file of the Principal Labour Court, Chennai. There will be no order as to costs in these appeals. Consequently, the connected miscellaneous petitions are closed.

Sd/--

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

jv
To

1. The Secretary to Government,
Department of Co-operative Societies,
Fort St. George, Chennai 600 009.
2. The Registrar of Co-operative Societies,
Chennai 600 005.
3. The General Manager,
Park Town Co-operative Wholesale Stores Ltd.,
Davidson Street,
Chennai 600 001.

+1cc to Mr.L.P.Shanmuga Sundaram, Advocate SR.No.43302
+1cc to Mr.K.Shanmugham, Advocate Sr.No.42545

KS(CO)
sm:24.7.2018

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