

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1940 of 2007

E.Saravanan

...Appellant/Petitioner

vs

V.Dhandapani,
Officer Administration,
IVRCL Infrastructures and Projects Limited,
Door No.9, Plot No.16, Manjulai 1st Main Road,
Kalaimagal Nagar, Ekkaduthangal,
Chennai-600 097.

...Respondent/Respondent

Prayer:

Civil Miscellaneous Appeal filed under Section 30 of Workmen's Compensation Act, 1923, against the order dated 08.02.2006 passed in W.C.No.236 of 2005 by the Deputy Commissioner of Labour-II (Commissioner for Workmen's Compensation-II), Chennai-600 006.

For Appellant : Mr.A.Shanmugaraj

For Respondent : Not ready in Notice

J U D G M E N T

The Appellant/claimant is aggrieved by the impugned order dated 08.02.2006 passed by the Deputy Commissioner of Labour-II (Commissioner for Workmen's Compensation-II), Chennai, in W.C.No.236 of 2005, raising the ground that the respondent has to pay the interest at the rate of 12% per annum from the date of accident, and has come forward with the present Civil Miscellaneous Appeal.

2. By the impugned order, the Commissioner for Workmen's Compensation has awarded a sum of Rs.3,22,560/- as compensation to the appellant / claimant.

3. It was the case of the appellant / claimant that, he met with an accident on 20.05.2004, while he was working in the respondent contract with Tamil Nadu Government for Veernama Kudinir Thittam, at 10ft., depth at Essur-Palar river bed, the sand as well as stones fell over and closed the petitioner and he sustained grievous injuries. The injured/appellant herein, has filed a petition for compensation for a sum of Rs.5,00,000/-. As against, the Deputy Commissioner of Labour, Chennai-6 has awarded for a sum of Rs.3,22,560/-as total compensation and awarding of interest at 12% per annum, in the event of failure of the respondent to deposit the compensation amount, as per the award. The respondent refused to pay the interest on expiry of 30 days from the date of the accident. Against which, the appellant has filed the present Civil Miscellaneous Appeal with the aforesaid prayer.

4. The appeal has been admitted on the following substantial question of law:

- i. Whether, the Deputy Commissioner of Labour-II (Commissioner for Workmen's Compensation-II) can fix the disability arbitrarily, even though the disability has been assessed by an expert?
- ii. Whether the Deputy Commissioner of Labour-II (Commissioner for Workmen's Compensation-II) ought not to have fixed the loss of earning capacity as 100%?
- iii. Whether the Deputy Commissioner of Labour-II (Commissioner for Workmen's Compensation-II) is right in not awarding interest at the rate of 12 % p.a from the date of accident under Section 4A(3) of W.C.Act., while passing the award on merit?

5. Heard the learned counsel for the Appellant and there is no representation on behalf of the respondent and perused the materials available on record.

6. The issue is no longer res integra as it was already decided by 'Four Judges' Bench of the Honourable Apex Court in Pratap Narain Singh Deo V.Srinivas Sabata reported in (1976) 1 SCC 289 wherein the Honourable Supreme Court held that the Workman is entitled to interest on expiry of 30 days of the accident. The said judgement was subsequently followed in the judgements rendered in Oriental Insurance Co.Ltd., V.Siby George ((2012) 12 SCC 540), Kerala SEB V.Valsala K. (1999) 8 SCC 254 and Saberabibi Yakubhai Shaikh and others V.National Insurance Company Limited and others (2014) 2 SCC 298. Therefore, the

questions of law are answered in favour of the appellant and against the respondent.

7. The Civil Miscellaneous Appeal is allowed and the appellant is entitled to interest on the award amount from the date of accident, which occurred on 08.02.2006. No costs.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

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To

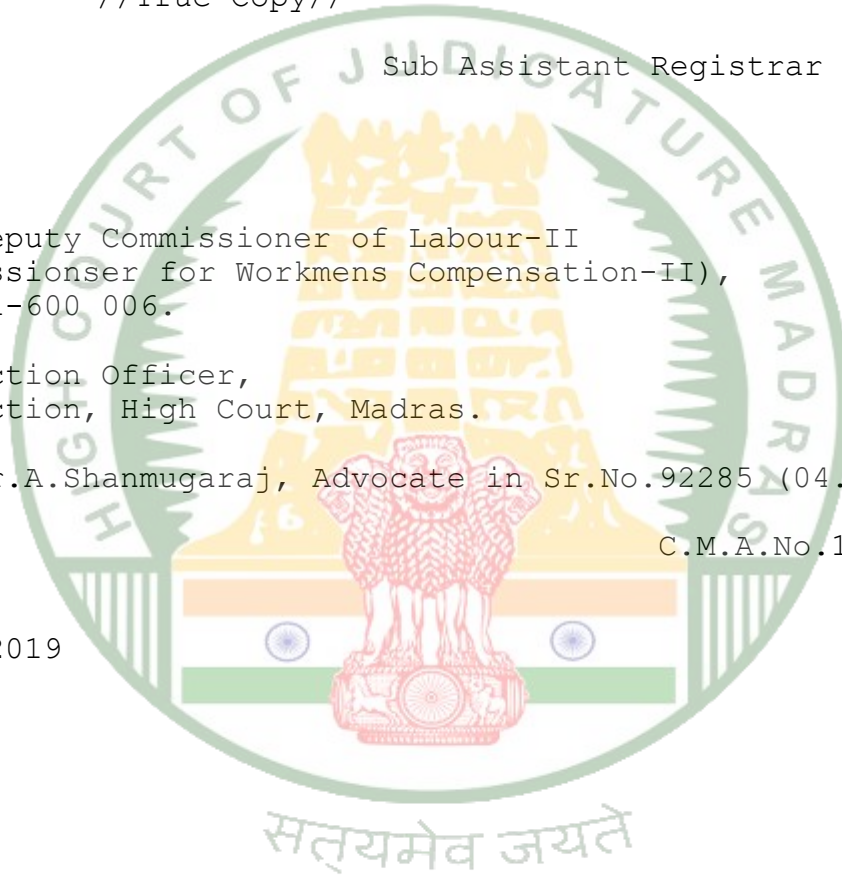
1. The Deputy Commissioner of Labour-II
(Commissioner for Workmens Compensation-II),
Chennai-600 006.

2. The Section Officer,
V.R.Section, High Court, Madras.

+lcc to Mr.A.Shanmugaraj, Advocate in Sr.No.92285 (04.01.2021)

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EV(CO)
CS/30/12/2019



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