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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2044 of 2007

R.Selvaraj

... Appellant/Applicant

Vs

1.Anbarasu

2.United India Insurance Company Limited,
No.38, Annasalai,
Chennai 600 002.

.... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal has been filed under Section 30 of Workmen's Compensation Act, 1923, against the order dated 23.01.2006 made in W.C.Case No.287 of 2005, on the file of Court of Commissioner for Workmen's Compensation II, (Deputy Commissioner of Labour II), Chennai 6.

For Appellant : M/s.A.Subadra for
Mr.T.Seshaih

For Respondents : R1 - Ex-parte
R2 - Mr.S.Arunkumar

J U D G M E N T

The appellant is aggrieved by the impugned order dated 23.01.2006 passed by the Deputy Commissioner of Labour - 2, Chennai in W.C.No.287 of 2005.

2.By the impugned order, the Deputy Commissioner of Labour - 2 has awarded a sum of Rs.1,17,093/- to the appellant/claimant.

3.In the present Civil Miscellaneous Appeal, the appellant has raised the following substantial questions of law for consideration:-

- i. Is not a Commissioner under Workmen's Compensation Act required to fix the percentage of loss of earning power as certified by the



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- medical practitioner?
- ii. Is not the workmen suffering from total loss of earning power (100%) as certified by the medical practitioner?
 - iii. Is a Commissioner under Act empowered to assess loss of earning power against the medical practitioner's assessment, in view of Sec.4(1)(c)(ii) of the Act?
 - iv. Is not the workmen entitled the interest from the date of accident as per the Sec 4(a) of the Act?

4. However, at the time of hearing, the learned counsel for the appellant has restricted the appeal qua the interest alone. It is submitted that the interest is payable from the date of the accident and not on ordered by the Deputy Commissioner of Labour- 2, Chennai.

5. As per the following judgments, interest can be awarded from the date of accident.

- i. Pratap Narain Singh Deo vs Srinivas Sabata and Another, (1976) 1 SCC 289.
- ii. Jaya Biswal and Others vs Branch Manager, IFFCO Tokio General Insurance Co. Ltd., 2016 (1) TN MAC 289 (SC).
- iii. N. Ganesan vs Thilagavathi and Others, 2010 (2) TN MAC 80 (DB).
- iv. R. Prakasam vs M/s. A to Z Cargo Carieer and Another, passed by this Court in C.M.A.No.2558 of 2015.

6. In view above judgments, I am inclined to allow this Civil Miscellaneous Appeal by awarding the interest at 12% from the date of accident to till the date of deposit. Therefore, the 2nd respondent is directed to deposit the interest at 12% from the date of accident to till the date of deposit within a period of 30 days from the date of receipt of a copy of this judgment.

7. Accordingly, the order of the Deputy Commissioner of Labour is modified. The present Civil Miscellaneous Appeal is allowed. No cost.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

vkrr/jen



To

1.The Commissioner for Workmen's Compensation II,
Deputy Commissioner of Labour II, Chennai 6.

2.The Section Officer,
Vernacular Section, Madras High Court.

+1cc to M/s.T.Seshaiah, Advocate SR.93168

+1cc to M/s.S.Arunkumar, Advocate SR.92660

C.M.A.No. 2044 of 2007

PVS (CO)
CB(09/01/2020)